INDIAN
Constitutional Development
AND
National Movement

BY

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PREFACE TO THE FIRST EDITION

This book has been written primarily to meet the requirements of the B. A. students of our Universities who have to study the development of the Indian Constitution and its relation to the National Movement as a part of their studies in Political Science. The comprehensiveness of the account of the Constitutional Development since 1919 and of the growth of the National Movement, particularly during what has come to be known as the Gandhian era, makes it useful even to the post-graduate students who offer Development of the Indian Constitution as one of their optional papers.

Since the development of the Constitution and the growth of the National Movement have acted and reacted upon each other, the description of the latter had to be divided into three separate chapters and interspersed between the chapters dealing with the former. An effort has been made to show how the growth of the national demand made it necessary for the British Government to introduce parliamentary Institutions in a gradual manner, and how the inadequacy of the British response stimulated and intensified the national demand in turn. Two chapters have been devoted to an account of the contributions made by some of the great leaders to the National Movement. One chapter deals with the origin and growth of communalism in the country.

The book has grown bigger than what it was expected to be. Rather than impose arbitrary limits from outside, I have let the nature of the subject-matter determine its size.

The books on which I have mainly relied in writing this volume have been referred to in the footnotes. The more important of them are the following : *Landmarks in Indian Constitutional and National Development* by Principal Gurmukh Nihal Singh, *The Constitutional History of India* by Punniah, *Renascent India* by Dr. Zacharias, *India : A Restatement* by Coupland, *Indian Politics since Mutiny* by C. Y. Chintamani, *Autobiography* and *The Discovery of India* by Pandit Jawahar Lal Nehru, and *The Indian Struggle* by

Subhash Chandra Bose. One of the best accounts of the growth o communalism is found in *The Communal Triangle* by Asoka Mehta. Mention must also be made of the *History of the Indian National Congress* by Dr. P. Sitarammaiya. *India's Struggle for Freedom* by Hirendranath Mukerji will also be found interesting reading.

In conclusion I have to offer my grateful thanks to my esteemed friend and colleague Dr. K. K. Sharma for the very great help he rendered in going through the proofs and for the valuable suggestions made by him from time to time.

PREFACE TO THE SECOND EDITION

This edition is mainly a reprint of the first edition. It is only in the second part dealing with the New Constitution of India that minor changes have been made here and there.

VIJAY MANDIR,
CIVIL LINES,
MEERUT.
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INDIAN CONSTITUTIONAL DEVELOPMENT AND NATIONAL MOVEMENT

CHAPTER I

Constitutional Development under the Company

Introductory.—By the grace of God and as a result of the unique leadership of Mahatma Gandhi and the sacrifices cheerfully and voluntarily undergone by hundreds of thousands of her sons and daughters, India has now been admitted into the comity of free nations and she occupies an honoured place there. She has thrown off the foreign yoke and become free and independent. The greatest sign and symbol of the newly acquired status of our national independence is the framing of a constitution of free India by her own people through their accredited leaders assembled in a constituent assembly. This constitution came into operation on the 26th of January, 1950. It declares India to be a Sovereign, Democratic Republic, and secures to all her citizens social, economic and political justice ; liberty of thought, belief, faith and worship ; and equality of status and opportunity.

As citizens of a free and democratic India it behoves all of us to take a lively and keen interest in public affairs and contribute our instructed judgment to the solution of public problems. This requires, among other things, an adequate knowledge of the system of government under which we live and of the social and economic forces which influence and mould our lives and conduct. In this volume we propose to give an account of our political system and of the way it has grown and developed.

The constitution of a country is always a going concern ; it is a living thing subject to growth and development, and not a lifeless and static entity. It always carries something from the past into the

present and from the present into the future. In order to know it well one has to dive into the past. As some one has put it, they know not the present who only the present know. For an adequate understanding of our new constitution we have therefore to extend our mental horizon and take into consideration the preceding systems of government which have contributed something to it.

But where shall we begin ? How far back into the past shall we go for our starting point ? Shall we go back to the systems developed during the ancient Hindu India and the medieval Muslim India? Although we inherit a rich legacy from the past, in our efforts to understand the present system of government we need not travel so far back ; our legacy from the Hindu and Muslim periods is more socio-religious than political. The political institutions built by the ancient Hindus during the period of their ascendency and by the Muslims when they wielded the sceptre have beome a thing of the past ; they do not survive in any form at the present—the village punchayats being the only exception. When the British acquired political power in our country, they ignored them completely and built a new political structure based on their experiences in England. They, however, could not wipe off the social *inheritance* ; it continued to mould and shape our life and conduct during the British period and is still operative. Our caste system, our social exclusiveness, the differences between the Hindus and the Muslims, our poverty, our primitive and backward agricultural economy, and our illiteracy : all these factors have powerfully influenced the growth of the national movement and the development of the constitution since 1857. Any one who desires to understand the complexities of our political life must pay attention to the social and economic factors whose operation can be traced to a remote past. But, however relevant and important the study of our social heritage may be for a proper understanding of our political system, we cannot go into it here.*

We are thus driven to the conclusion that in tracing the origins and development of the Indian constitution we may begin with the commencement of the Birtish rule in our country, and need not refer to the political institutions developed by either the Hindu or the Muslim rulers.

* Those who want to study it may refer to the author's *Civic Life of India* published by Jai Prakash Nath & Co., Meerut.

The development of the constitution under the Birtish falls into two broad periods, the one under the rule of the East India Company, and the other under the rule of the Birtish Crown. 1858 is the dividing year ; it marks the end of one period and the beginning of the other in the growth of the Indian constitution. During the rule of the Company the initiative for the various changes introduced in the system of govrenment in our country came from the British Parliament ; there was no political life in the country worth the name which could have influenced and directed its course. The second period was marked by the emergence of a strong and virile national movement which profoundly influenced the growth of the constitution.

The development of the constitution during this period was conditioned and influenced by the interaction between two main forces, the strongly entrenched British Imperialism and the newly emerging Indian Nationalism. The chief point of interest to the student of the constitutional development during it is the way in which the British imperial government sought to meet the situation in the country produced by discontent amongt he intelligentsia. It did so by various measures of decentralisation and the establishment of councils with a popular element, which paved the way for the first instalment of responsible government in the Provinces in 1919, partial responsibility in the Centre in 1935, and the grant of full Dominion Status in 1947, followed by the declaration of India as a sovereign republic in 1950. In this chapter we shall confine ourselves to an account of the way in which the outlines of the constitution were fixed during the rule of the East India Company. In subsequent chapters we shall describe the growth of the constitution under the Crown.

The Rise of the East India Company.—The East India Company was formed in England in 1599 for carrying on trade in the East which was considered to be very lucrative. It received the Charter from Queen Elizabeth on the last day of 1600. The story of the way in which the Company, in the course of its career, came into conflict with other European merchants, first with the Portugese and the Dutch who had come into the field earlier, and next with the French who came later, and how this conflict ended in the elimination of the other rivals leaving the East India Company the virtual ruler

of Bengal, Bihar and Orissa, need not be told here ; it pertains more to history than to constitutional development. Only this much may be stated here that after the death of Aurangzeb in 1707 a gradual distintegration of the Moghul Empire set in, and there were disturbed and chaotic conditions in several parts of the country. The Company took full advantage of these conditions and managed to get the Diwani from the Moghul Emperor, Shah Alam, in 1765. The grant of the Diwani transformed the character of the Company ; it no longer remained a purely trading concern, and added to its trading interests the exercise of political power. It will not be wrong to say that the foundations of Birtish sovereignty were laid in 1765 by the grant of the Diwani.

The way in which the Company exercised political power and the misrule that was rampant in the territories under its control showed that it was not adequately equipped for it. The admixture of commercial interests with political power was the chief source of evil. The desire to amass wealth by all possible means on the part of the servants of the Company made its administration very corrupt, rapacious and perfidious. The absence of an efficient Civil Service to carry on the work of administration was also responsible for the evil to some extent. The result was that, on the one side, the income of the Company began to dwindle on account of the selfishness and rapacity of its servants, and its expenses mounted up rapidly on account of the wars in which it had to engage and the consequent necessity of maintaining a large army ; and on the other side, the sufferings of the people of Bengal and other territories increased. 'Whole districts which had been populous and flourishing were at last utterly depopulated, and it was noticed that on the appearance of a party of English merchants the villages were at once deserted and the shops shut, and the roads thronged with panic-stricken fugitives.'* Such a state of affairs made some persons in Great Britain question the legitimacy of a private trading company exercising political authority. The suggestion was made that the Crown itself should assume possession of the territories, or undertake the functions of Diwani and directly administer the affairs of the territories which the

* Lecky, quoted by G. N. Singh : *Landmarks in Indian Constitutional and National Development*, page 13.

Company had acquired in India. It was not found practicable for certain reasons to adopt this course. But it was also impossible to let the Company completely alone in its political or administrative work. The public mind was greatly agitated by the stories of the unscrupulous way in which the Company's servants acquired large fortunes. There remained only one alternative ; namely. to bring the political activities of the Company under legitimate control by Parliament. It was supported by the current doctrines of constitutional law.

The occasion for subjecting the political work of the Company to control was provided by the request of the Company to Parliament for a loan which alone could save it from ruin. Parliament decided to appoint a secret committee to enquire into the Company's affairs and report. As a result of the secret committee's report submitted in May 1773,. Parliament passed the famous Regulating Act of 1773,

The Regulating Act of 1773 — This Act occupies a very important place in the constitutional history of our country. It is the first of a long series of Parliamentary Acts which shaped and moulded the structure of the Government of India from time to time. By and through it, Parliament for the first time recognised the political functions of the East India Company and asserted its own right to dictate the form of government for what were till then considered to be the private possessions of the Company. Before its enactment they were grouped into the three Presidencies of Bengal, Madras and Bombay. Each one of them was separate from and independent of the other. Every Presidency had its own Governor and Councillors, and each Governor had direct dealings and communications with the Court of Directors in England which was the supreme governing authority of the Company's affairs there. The Governor of neither Presidency had any sort of supremacy over the other Governors. The Act of 1773 changed all this. It reconstituted the Council of Bengal and designated the Governor of Bengal as Governor General. It vested in him and his Councillors not only the civil and military government of Bengal, but also the power of superintending and controlling the governments of Bombay and Madras in the matter of declaration of war and making of peace. The Governors-in-Council of the two Presidencies were required to pay due obedience to the orders of the Governor General-in-Council, and to submit

to that authority all information in their possession concerning the government, revenues, or interests of the Company. The Governor General-in-Council was given the power to suspend any offending Governor and his Council. In this way the Act of 1773 laid the foundations of the *unitary* type of government for this vast country. It was the Government of India Act of 1935 which provided for the first time the establishment of the federal form of government in our country. The Act of 1773 named Warren Hastings as the first Governor General of Bengal and also named the four persons who were to constitute his Council. Each one of them was appointed for a five- year period, and was irremovable except by His Majesty upon representation made by the Court of Directors. At a later date Governors General, Governors and members of their Councils came to be appointed for a five-year term.

The Act also empowered the Governor General-in-Council to make rules and regulations for the peace and order and civil government of the Company's territories, provided they were not inconsistent with the laws in force in England. They were not valid unless they were registered with the Supreme Court and received its approbation. The last qualification was removed by a later Act. The Governor General-in-Council continued to enjoy this power of making rules and regulations for the peace and order of the country till the very end of the British rule in our country.

The Governor General and his Council were required by the Act to obey the orders of the Court of Directors and to keep it fully informed of all matters affecting the interests of the Company. This, too, became an important feature of the constitutional relationship between the Governor General and the authorities in Great Britain for all subsequent time. It would thus appear that the Act of 1773 laid the foundations of several important features of the government of this country.

The Act also contained remarkable provisions for regulating the judicial arrangements of the Bengal Presidency. It provided for the setting up by the Crown of a Supreme Court of Judicature at Fort William to settle claims against the Company and to punish the servants of the Company for their misdeeds without fear of consequence. The Court was given very wide jurisdiction. An appeal lay from the decision of the Supreme Court to the King-in

-Council in civil matters, and also in criminal matters with its consent. It may also be mentioned that the Act contained provisions for putting down bribery and other abuses which were rampant among the servants of the Company. It is not necessary to refer to them here. To compensate the officers for the losses and to induce them to act in a more honest way their salaries were increased. The Governor General was to receive £ 25,000/-, and each member of his Council £ 10,000/- per annum. It also made some changes in the constitution of the Court of Directors in England.

Professor Keith sums up the achievements of the Regulating Act of 1773 in the following words : 'This measure altered the constitution of the Company at home, changed the structure of government in India, subjected in some degree the whole of the territories to one supreme control in India, and provided in a very inefficient way for the supervision of the Company by the ministry.' We have tried to explain all these features except the last in what has gone before.

The Regulating Act of 1773 had several grave defects which were revealed by a few years' working of it. One of them was that 'it created a Governor General who was powerless before his Council, and an executive that was powerless before the Supreme Court, itself immune from all responsibility for peace and welfare of the country.'* It made the Governor General powerless before his Council by requiring that all decisions were to be taken by a majority of votes and by failing to give the Governor General the power to override a majority-vote decision of the Council. It made the executive weak before the Supreme Court by requiring that all regulations and ordinances passed by the Governor General-in-Council should be registered with and approved by the Supreme Court. Another defect lay in the fact that the relations of the Supreme Court with the courts established by Warren Hastings in the districts were not precisely defined. There were frequent conflicts beween the Supreme Court which was established by the Crown and the courts of the Company. The relationship between the Governor General-in-Council and the Supreme Court was also not clearly defined. The Act also failed to make it clear as to what law the Supreme Court was to administer. Parliament was forced by events in the country

* Report on Indian Constitutional Reforms, 1918, page 17.

to investigate the working of the Act, and it appointed two committees to enquire into the administration of justice and other matters. On the basis of the reports submitted by them the Amending Act of 1781 was passed which removed some of the defects of the Act of 1773.

The Amending Act of 1781.--Its chief provision was that it exempted the Governor General and his Council, jointly and severally, from the jurisdiction of the Supreme Court for anything done in their public capacity. An order issued by them could be pleaded in justification of his act by a subordinate official. The revenue collectors were also exempted from its jurisdiction for acts done in the collection of revenue. It thus strengthened the position of the executive. It also laid down that in cases affecting Hindus and Mohammedans the laws and customs of the defendant were to be applied in matters of inheritance and contract. Furthermore, it recognised the appellate jurisdiction of the Governor General and his Council as the Sadar Adalat with the right of appeal to the King-in-Council in certain cases. For the rest, it does not possess much constitutional importance.

Pitt's India Act of 1784— The Committees appointed by Parliament to enquire into the administration of justice in India and other matters made a report very unfavourable to (*i*) the system of executive and judicial administration in the territories controlled by the Company, and (*ii*) the Governor General and the Chief Justice who were respsonsible for it. In consequence, Parliament resolved to recall these two high officials, namely, Warren Hastings and Impey. The Court of Directors kept them in office, notwithstanding the resolution of Parliament for their recall. This shows the very inadequate degree of control of the ministry and Parliament over the Company and its administration. A bill designed to bring the Court of Directors of the Company in England and its officials in India under the control of the British Government was introduced by the ministry of North and Fox. It was passed by the House of Commons, but rejected by the House of Lords. When Pitt came to power, he secured the passage of his India Act through Parliament in 1784. Pitt's India Act established the system of Double Government in England which, with changes made from time to time, remained in operation till responsibility for the administration of

Indian affairs was assumed by the Crown in 1858. It also introduced some changes in the constitution of the Governor General's Council and the Governors' Councils, gave the Governor General-in-Council larger powers of supervision and control over the Governors-in-Council of Bombay and Madras, and thereby made the government of the country mo e unitary than before. On account of their great constitutional significance, a few words of explanation under each head seem to be necessary.

(*a*) **System of Double Government.**—The most important constitutional change introduced by the Act of 1784 was the establishment of what has come to be known as the system of Double Government for the management of the Company's affairs in England. Hitherto they were managed and controlled by the Court of Directors, subject to the superior authority of the Court of Proprietors. Appointments to high offices like those of the Governor General, Governors, Councillors, and of junior servants were made by the Directors who were also responsible for determining the policy to be followed in regard to Indian affairs. Superior authority rested in the Court of Proprietors. The Act of 1784 established a Board of six Commissioners, usually known as the Board of Control. It was to consist of the Chancellor of the Exchequer, one of the principal Secretaries of State, and four members of the Privy Council. It was empowered 'to superintend, direct and control all acts, operations, and concerns which in any wise relate to the civil or military government or revenues of the British possessions in the East Indies.' It was also to have access to all the papers, minutes, correspondence, etc., of the Company. The Court of Directors was bound to give the Board all information the latter might require and to carry out their instructions. Every order proposed to be sent out to India required the concurrence of the Board which had the right to modify it. Ordinarily the Board of Control issued orders and instructions to and through the Court of Directors, but it had the right to communicate them direct to a Committee of Secrecy of three persons established by the Act which was to send them to the officers of the Company in India without disclosing their contents to the Court of Directors. They were required by the Act to pay obedience to and be bound by such orders and instructions as they might receive from time to time from the Board of Control to which politi-

cal power was thus transferred. In this way the Court of Directors and the Court of Proprietors lost their supreme governing power which was transferred to the Board of Control. The position of the Board can be compared to that of the Secretary of State in Council at a later date. It must not however be supposed that the Directors were left with no powers or influence, their position was still strong; they exercised considerable influence upon the details of administration and had the right of initiative. The Board of Control was primarily a revising and not an originating body. There were thus two bodies controlling Indian affairs in England, the Court of Directors (together with the Court of Proprietors) and the Board of Control. This is why the Act of 1784 is sometimes said to have inaugurated the period of *Double Government* so far as the conduct of Indian Administration in England was concerned. It should be noted that for the first time the Act described the territories in India controlled and administered by the Company as 'British possessions'.

(*b*) The Act of 1784 carried the process of unification of India under a strong central government one step further by giving the Governor General-in-Council greater powers to direct and control the governments of the Presidencies. It gave him the power 'to superintend, control and direct the several presidencies and governments', not only in regard to matters of peace and war but also in regard to matters which were entrusted by the Directors to the control of the central government. One might say that the orders of the Governor General-in-Council were to be binding upon the governments of the Presidencies unless the latter received different orders from the Directors. The Governor General-in Council was also subjected to the control of the Court of Directors and the Secret Committee. He was forbidden to pursue schemes of conquest or to declare war against any prince without the authority of the Directors or the Committee of Secrecy.

The Act introduced certain changes in the composition of the Councils of the Governor General and the Governors. Each Council was to consist of three members, of whom the Commander-in-chief (central or local as the case may be) was to be one. The Governor General or the Governor was to have the casting vote in case of a tie. Members were to be appointed by the Court of Directors, from among the convenanted servants of the Company, but were

subject to removal or recall by the Crown. The experiment of sending out new men from England had proved to be a dismal failure.

It would be evident from the above that the main purpose of the Act of 1784 was to transfer the power to control Indian administration from the Court of Directors to the Board of Control which was intended to be a sort of annexe to the Cabinet. After some time its ex-officio members ceased to attend its meetings, and the powers of the Board came to be exercised by its President who virtually functioned as 'a Secretary of State for India, and Indian affairs became a matter for the Cabinet in the same manner as those colonial issues which were dealt with by a Secretary of State.'* The President came in and went out of office like other ministers with every change of government.

The Act of 1786.—It would be remembered that one of the serious defects of the Regulating Act of 1773 was that it made the Governor General powerless before his Council. No step was taken to remove this defect until 1786 when, at the suggestion of Lord Cornwallis who succeeded Warren Hastings as the Governor General, an act was passed empowering the Governor General to over-ride his Council and act on his own responsibility whenever he thought fit. He was indeed bound to consult his Council and was expected to accept its advice, but was given the right to reject it and act as he deemed proper whenever occasion demanded such a course.

The Charter Act of 1793.— The Charter of the Company required renewal every twenty years. The occasion was always made use of by Parliament to institute an investigation into the affairs of the Company in India and modify the conditions on which permission to continue trade was to be given. The Act which renewed the Charter in 1793 is a long one, but is not of much constitutional importance. It made no important changes and was of a consolidating nature. It provided for the payment of the members of the Board of Control and its staff out of Indian revenues, a practice which continued till it was abolished by the Act of 1919.

The Charter Act of 1813.—The Act which renewed the Company's Charter for another twenty years in 1813 is not of much constitutional importance like its predecessor except on two counts.

* Keith : *Constitutional History of India*, page, 99.

In the first place, it asserted in an emphatic manner the undoubted sovereignty of the British Crown over the Indian territories of the Company. It allowed the Company the possession of its acquisitions in India and the revenues therefrom 'without prejudice to the undoubted sovereignty of the Crown of the United Kingdom of Great Britain and Ireland.' It also defined and increased the powers of the Board of Control to superintend and direct the affairs of the Company in India. It made the approval of the Crown necessary for appointment to high offices like those of the Governor General and the Governors. Previously, the Crown had only the negative power of recall. In the second place, it reduced the trade monopoly of the Company to tea, and threw open the general trade with India to all British merchants under a system of licenses. No unlicensed person could trade with India. It also contained a clause requiring the Company to set apart a sum of one lakh of rupees annually for the advancement of the education and learning of the people of this country.

The Charter Act of 1833.—This Act, the outcome of much enquiry like its predecessors, is more important than the Acts of 1793 and 1813. Lord Morley described it as 'the most extensive measure of Indian Government between Mr. Pitt's famous Act of 1784 and Queen Victoria's assumption of the Government of India.' It is important for the following reasons :—

(*a*) It put an end to the commercial business of the East India Company altogether. The Company ceased to be a mercantile corporation which it had been since the day of its inception in 1600, and became a purely administrative body. Its political work continued to be conducted by the Court of Directors subject to the superintendence and control of the Board of Control. It may be pointed out that strong protests were made by some members of the House of Commons against 'leaving the political government of an immense empire in the hands of a joint stock company'. It was Macaulay's advocacy of the Company's cause which saved the situation. 'The territories and revenues were granted to the Company for another twenty years, to be administered in trust for His Majesty, his heirs and successors, for the service of the Government of India.'*

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*K. V. Punniah, Constitutional History of India, page 52.

(*b*) The Act made several changes of a far-reaching character in the machinery for the making of laws. It deprived the Governors-in-Council of the three Presidencies of their right of making laws which they had enjoyed so far, and concentrated in the Governor General-in-Council the power to make laws for all the territories of the Company in India. All that the governments of the Presidencies could do was to submit their legislative proposals or drafts for the consideration of the Governor General-in-Council. This was a much needed reform ; it put an end to the conflicting nature of the laws and the diversity of the law-making authorities in the territories of the Company. It added a fourth member to the Governor General's Council who came to be known as the Law Member. He was to assist the Governor General-in-Council in the making of laws for all persons and courts and places within the territories of the Company and its servants and had no right to vote on other matters. Lord Macaulay was the first Law Member. It also directed the Governor General-in-Council to appoint a Law Commission for the codification of laws after a full enquiry into the jurisdiction, powers and rules of the existing courts , the forms of judicial procedure, operation of laws, etc. Lord Macaulay was the Chairman of this Commission. The Commission languished after the departure of Macaulay, and the net result of its labours was not much.

(*c*) The Act declared that fitness was henceforth to be the criterion of eligibility for appointment to offices, and that no native of India was to be disabled from holding any place or employment under the Company solely by reason of his religion, place of birth, descent, colour or any one of them. As the country knows this promise was honoured more in breach than in fulfilment.

The Act of 1833 made no substantial change in the structure of the Government of India. In order to emphasise that the whole system of government derived its ultimate authority from the British Parliament, it inserted a clause declaring that 'a full, complete and constantly existing right and power is intended to be reserved to Parliament.' The other provisions of the Act have little or no constitutional importance, and need not therefore be mentioned here.

The Charter Act of 1853.—This Act also possesses some constitutional importacne. It was the last of its kind. The circumstances under which it was passed by Parliament were, in a way, unique. When

the Act of 1833 was being discussed, there was strong opposition to allowing the Company the exercise of political power. But this opposition came from English sources only. When the time for the renewal of the Charter came in 1853 there was opposition from Indians also. A largely signed petition against further extension of the Charter was sent on behalf of the inhabitants of three Presidencies. One main reason for this opposition was the failure of the Company to give effect to the clause of the Act of 1833 which had raised high hopes in the minds of the Indian young men by stating that fitness alone was to be the criterion of eligibility for appointment. No Indian was appointed to any high post during the twenty years which elapsed since the passing of Act. This was the beginning of political agitation in the country.

The Act of 1853 renewed the powers of the Company, not for a definite period of 20 years, as in the past, but 'until Parliament should otherwise direct.' This was a departure from the previous practice. It further laid down that the Company was allowed to retain possession of the territories in India 'in trust for Her Majesty, her heirs and successors.' The trust could be terminated any time. Parliament was thus left free to relieve the Company of its political functions at any time it liked.

In the second place, the Act of 1853 separated the office of the Governor General of India from that of the Governor of Bengal. Since the passing of the Regulating Act of 1773 the Governor General of India was also the Governor of Bengal. The interests of Bengal had suffered for want of a separate Governor. This Act empowered the Governor General to appoint, with the permission of the Board of Control and the Court of Directors, a separate Governor or Lieutenant Governor for Bengal. A separate Lieutenant Governor was appionted in 1854.

In the third place, the Act for the first time drew a distinction between the administrative and legislative functions of the government and created a separate organ for the making of law. For legislative purposes the Executive Council of the Governor General was to be enlarged by the addition of six new members to be known as legislative members. Two of them were to be English Judges, and the remaining four were to be officials nominated by the governments of Madras, Bombay, Bengal and Agra. This was a step of great consti-

tutional importance ; it marked the beginning of a legislative organ distinct from the executive.

Lastly, it took away from the Directors the power of patronage they had enjoyed till then. The 'convenanted' service of the Company was thrown open to competition to all subjects of Her Majesty under rules to be made by the Board of Control. Appointments to it came to be made on the basis of competitive examinations. The importance of the position of the President of the Board of Control was increased by placing him on a level with a Secretary of State as regards pay. It may also be mentioned that the Law Member, first added by the Act of 1833, was given full rank as a member of the Council with the right to discuss and vote on all questions.

The other provisions of the Act have little constitutional significance and are passed over. Brief reference may also be made to the Act passed by Parliament in 1854. It empowered the Governor General-in-Council to create what have been since then known as Chief Commissioners' Provinces and to take their administration in his own hands.

It would thus be clear that the main outlines of the structure of the Government of Birtish India were determined by the various Acts passed by the British Parliament from time to time. Indian opinion was not associated with their enactment in any way The only time when it was voiced was when the Charter was to be renewed in 1853. During this period there could be no thought of starting representative institutions or of preparing Indians for self-government. There was no political life in the country, and a private trading corporation could not be expected to entertain such ideas. It should also be noted that as a result of the various Acts passed by Parliament between 1784 and 1858 when responsibility for the administration of Indian affairs was transferred from the Company to the Crown, the powers and privileges of the Company diminished in England and those of Parliament grew. There was also a steady growth of an administrative system in India.

CHAPTER II

Constitutional Development under the Crown: 1858—1919

Introductory.— Having briefly described the growth of the

constitution as it took place under the rule of the Company from 1773 to 1857 in the preceding chapter, we now turn to its development under the Crown. The period of government by the Crown may be divided for the sake of convenience into two parts, the first one extending from 1858 upto the inauguration in 1921 of the Government of India Act of 1919, and the second from 1921 to 1947 when India attained Dominion Status and was partitioned. During the whole of this period the development of constitution was powerfully influenced by the rise and growth of a strong national movement under the Indian National Congress. Whatever reforms were introduced from time to time were designed by the British statesmen to placate national opinion and meet the political situation as it developed in the country ; the demand and the impulse for constitutional reforms came always from the Indians. This means that the development of the constitution and the growth of the national movement have to be studied together. It should also be remembered that during the first phase as delimited above, the Government of India remained wholly responsible to the British Parliament through its agent, the Secretary of State for India ; there was no element of popular control in it. The only concession to popular demand consisted in the enlargement of the legislatures from time to time, and in an increase in the number of Indians representative of public opinion in them, but without any power to control the executive being extended to them. The second phase was characterised by the gradual establishment of popular or self-government, first in the provinces and next in the centre. These developments will be studied in the chapters to follow.

The Mutiny—It would be recalled that even in 1833 there was a strong opposition in the House of Commons to the renewal of the Company's Charter. The volume of opposition increased in 1853. What the critics of the Company rule failed to achieve in 1853 came to pass in 1858. The uprising which took place in India in 1857, called Mutiny by some and the First War of Independence by others, furnished the motive and occasion for terminating the political functions of the East India Company and transferring the responsibility for the governance of India to the Crown. It is not relevant to our purpose either to trace the origin of the Mutiny and state the causes of its failure, or to examine the arguments advanced

on behalf of the Company for the maintenance of the *status quo* and the rejoinder to the arguments as given by the British Government. We shall not even describe the way in which the Act for the Better Government of India found its way to the statute book. We shall explain the chief features of the Act of 1858 which was, in one sense, more revolutionary in its effects than any previous Act passed by Parliament in relation to India. But before doing so, a few words about the effect of Mutiny on Indo-British relations seem to be called for.

For a proper appreciation of these effects it is necessary to understand the political atmosphere which prevailed in Great Britain in the thirties and forties of the last century. The great Reform Act of 1832 which began the process of democratisation of the British House of Commons had in a way settled England's political ideal: it was to be democracy and not autocracy or plutocracy. This great liberal measure was followed by other measures breathing the liberal spirit ; *e. g.*, the abolition of slavery, the passing of the first factory law, the repeal of the Corn Laws, and the first state grant to education. In 1839 Lord Durham submitted his report which recommended the establishment of responsible government in Canada as the best solution of her problems. Near about the same time Cobden declared that Colonies could not be held by the sword, by armies and ships of war, but that the best way to retain them was to win their affection. These events show that in the early and mid-Victorian periods England pursued liberal statesmanship, not only in her home policies but also in relation to India and other countries. The very fact that some of her best statesmen were opposed to any further extension of the Company's Charter in 1833 and 1853 is evidence of the fact. The clause in the Act of 1833 which laid down that no native of India 'shall by reason only of his religion, place of birth, descent, colour or any of them be disabled from holding any place, office or any employment' under the Government of India also supports the above contention. Nor should we forget in this connection the fact that the Company was required to set apart one lakh of rupees for the advancement of education and learning among the Indian masses, and the efforts that were made by Christian Missionaries in the direction of education in this country. On their side, Indians were eager to assimilate

this liberal western outlook. The activities of Raja Ram Mohan Roy and other leaders of the Brahmo Samaj are a witness to this attitude. It would not be wrong to say that many Indians of those days accepted the British connection 'as ordained, in the inscrutable dispensation of Providence, for India's good'.*

The Mutiny changed all this. 'The blight of distrust had begun to fall upon England's relations with India : these people had mutinied once and committed dreadful atrocities—how could one trust them not to plan further sedition ? After the Mutiny, testifies an eyewitness. "the old sympathy with India changed to a feeling of repugnance : the old spirit of content with life and work in India, the old inclination to regard things in an Indian rather than an English light, gave place to a reluctance to stay in India longer than needs must, and a disposition to judge things by an emphatically English standard" '† In short, the Mutiny was, to a large extent, responsible for the disappearance of the political liberalism which had earlier inspired the British statemen. That which was regarded previously as signs of a people preparing themselves for self-government came to be viewed as sedition and therefore as a crime after the Mutiny. Before the Mutniy the Englishmen came into frequent and intimate contact with their Indian friends and were influenced by their opinions and views ; after the Mutiny this living contact grew less, and the Britishers began to deal with Indians in an official capacity. Their life came to be divided between the office and the club. All this meant not only the loss of the intimate counsel they got from their Indian friends, also the growing racial estrangement which led persons like Kipling to remark that 'East is East and West is West, and the the twain shall never meet.'

On their side, Indians could not forget the most brutal and ruthless way in which the Britishers quelled the Mutiny and the atrocities they perpetrated. 'The English killed their prisoners without trial and in a manner held by all Indians to be the height of barbarity......They massacred thousands of the civilian population...... General Neil gave orders to his lieutenants that certain villages were marked out for destruction and all the men inhabiting them were slaughtered, and the indiscriminate burning of their inhabitants occurred wherever our English

* Cf. Zacharias : *Renascent India*, pages 82—98.
† Zacharias, *ibid*, page 92—93.

armies moved.'* Such a barbarous and cruel treatment could not be easily forgotten ; it tended to widen the chasm between the rulers and the ruled.

The Mutiny had other effects also which persisted for long after the event itself. It made the British Government realise more vividly than in the past that the only way to save the small numbers of Europeans from being ovrewhelmed by the unity between the Hindus and the Muslims was to keep them apart. The Mutiny was made possible by, and demonstrated the existence of, a good deal of amity and mutual sympathy and cooperation between the two major communities. The British statesmen set themselves to the task of drawing a wedge between them and greatly succeeded in their efforts. The reorganised the Indian Army on a new basis after the Mutiny. Before that event Indians stood mixed up in the ranks of the regular forces. There was no division or separation by caste or clan. The Hindus and the Muslims, the Jats and the Sikhs, and the Poorbeas were mixed up so that each and all lost to some degree their racial or sectarian prejudices and developed a rare spirit of comradeship or *espirit de corps*. It was the sentiment of unity thus created which made the Mutiny possible. The reorganisation of the army introduced by the Government after the Mutiny destroyed this sentiment of unity. Regiments, battalions and companies came to be based on sectarian, caste and class distinctions. The evil effect of this reorganisation manifested themselves after the Partition when soldiers forgot their duty and began killing those whom it was their duty to protect for no reason other than that they belonged to the other community. Outside the army effect was given to the policy of encouraging the one and suppressing the other community. It was the Mohammedan community which was penalised first. The Muslims were deliberately kept out of the Army and the government services. Later on it was the turn of the Hindus who had become 'seditious' to be treated in a discriminatory way. The Hindu-Muslim problem was largely a product of the post-mutiny period.

The immediate effect of the Mutiny was that the British Government decided to terminate the political functions of the

* Garrat , *An Indian Commentary*.

East India Company and take over the responsibility for the administration of Indian affairs into their own hands. This was effected through the Act of 1858 whose main provisions are given below.

The Act of 1858.—This is known as the Act for the Better Government of India, and received the royal assent on August 2, 1858. Its constitutional importance and revolutionary character lie exclusively in the fact that it transferred the responsibility for the governance of India from the East India Company to the Crown. India henceforth began to be 'governed by and in the name of Her Majesty'. All the territories acquired by the Company in India became the possessions of the Crown, and all the revenues from them were to be received for and in the name of Her Majesty. It thus marks the end of one and the beginning of a new era in the constitutional development of India. But it should be remembered that, though it marked a change in the form of government, it made no difference in the substance of powers.

It empowered the Crown to appoint a Secretary of State for India to whom all the powers hitherto exercised by the Board of Control and the Courts of Directors were to be transferred. The Act required the Secretary of State for India annually to place before both the Houses o Parliament an account of the revenues and expenditure of the Government of India together with a report on the material and moral progress of the people of India during the preceding year. The salary of the Secretary of State was charged on the revenues of India. In other words, we can say that the chief effect of the Act of 1858 was to abolish the system of Dual Government which was brought into existence by Pitt's India Act of 1784. Instead of two different authorities controlling the administration of affairs in India from England, namely, the Board of Control and the Court of Directors, henceforth there was to be only one authority, the Secretary of State for India-in-Council.

The Act created a body known as the Council of India or India Council, consisting of fifteen members to assist and advise the Secretary of State for India in transacting the affairs of this country. Eight members out of the fifteen were to be nominated by the Crown and the remaining seven were to be elected by the Directors. Members were to hold office during good behaviour

but could be removed by the Crown on an address by both the Houses of Parliament. Half of the members were to have served in India under the Company or the Crown for at least ten years and must not have left India more than ten years before their appointment. The strength of the Council of India and the qualifications of its members and their tenure were changed from time to time by subsequent Acts.

The Council of India was charged with the duty of conducting the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India under the guidance of the Secretary of the State for India who was to be its President. It was to meet at least once a week. The Secretary of State for India-in-Council thus constituted what came to be known as the 'Home Government of India'.

The Crown was to appoint the Governor General and the Law-member of his Council, the Governors and the Advocate General. The members of the Councils of the Governor General and the Governors were to be appointed by the Secretary of State-in-Council by a majority ; and the appointments previously made in India were to continue to be made in the same way as before.

(No change was introduced by the Act of 1858 in the structure of government in India ; things continued to be administered in the old way.) In this respect the Act of 1861 is more important than that of 1858 ; it introduced several vital changes possessing great constitutional significance. Before describing the main provisions of the Indian Councils Act of 1861, it is desirable briefly to refer to the Royal Proclamation issued on November 1, 1858, which announced the assumption of direct responsibility by the Crown for the governance of Indian affairs. (In the Proclamation the Queen announced to the Princes and peoples of India the abandonment of the policy of annexation and her adherence to the policy of religious toleration. She assured the Princes that all the treaties and engagements made with them by or under the authority of the Company would be accepted and honoured by her, and that she would respect the rights, dignity and honour of the Princes as her own. The people were told that they would be admitted freely and impartially to public offices without any distinction of race or creed, provided they possessed the necessary qualifications. The

sentiments were noble indeed and were expressed in dignified and beautiful language. The Proclamation was received with enthusiasm in India and 'caused an outburst of loyalty to the English Crown'. Its only fault was that the promises made in it wer never carried out.

The Indian Councils Act of 1861.—The view was held in certain quarters that lack of contact between the rulers and the ruled and the non-inclusion of Indians in the legislature of the country were among the causes of the Mutiny. Loyalists like Sir Syed Ahmad Khan complained that the Government of India had no means of knowing whether the laws made by them were advisable or not from the people's point of view ; there was no agency to convey the voice of the people to the government. As a consequence there was a great likelihood of people misunderstanding the views and intentions of the government and misconstruing the Acts passed by them. He said 'Had there been a native of Hindustan in the Legislative Council, the people would never have fallen into such errors, (*i. e.*, the Sepoy Rebellion)'. The Government of India, too, began to realise the necessity of non-official advice in the work of law-making, particularly because of the growing exclusiveness of the Britishers in India and the lack of intimate contact with the people which was the result of the feelings of distrust and antagonism produced by the Mutiny. So what was deemed impracticable in 1858 was found to be desirable and necessary in 1861. The Act of 1861 empowered the Governor General to enlarge his Council for purposes of making laws by adding not less than six and not more than twelve members. Not less than one-half of the members so nominated were to be non-officials. These non-official members were to be nominated for a two-year term. Thus for the first time Indians were to be associated with the work of legislation. This was a momentous change made by the Act of 1861. It should be remembered that the non-official members were to be *nominated* to the Council by the Viceroy ; they were *not to be elected* by the people. Under the conditions then prevailing, even this was a great step forward. It could have enabled the Vicerory to come into contact with real Indian opinion, if the right type of Indians were selected. But the non-official members generally appointed to the Councils were either the Indian Princes or their Diwans, big Zamindars or retired offiicials, and not the natural leaders of the people

who could really reflect and mirror their views and aspirations. They showed no eagerness to attend the meetings of the Councils ; nay, 'they showed the utmost reluctance to come and the utmost hurry to depart'* Perhaps the reason of their disinclination to participate in the work of the Councils lay in their extremely restricted functions and not in the climate of Calcutta as was suggested by Sir Henry Maine. The main function of the Councils was to register the decrees of the executive and give them legislative sanction. The non-official members had little influence in them. The experiment was thus a failure. Nevertheless, it may be said that the seed of representative institutions was thus sown.

It is also interesting to observe that the experience of the working of the enlarged Council for law-making purposes (in terms of the Act of 1853) was not very happy from the point of view of the executive also. The Council had become a sort of debating society or a petty Parliament and arrogated to itself functions other than those of law-making ; *e. g.*, calling for reports on different matters, and demanding information which could not be disclosed. This was not liked by the government. The Act of 1861 therefore put limitations on the powers of the expanded Council ; it could not transact any business other than the consideration and enactment of the measures submitted to it. The right to ask questions and the right to deliberate on matters of policy were withheld from it. The Act of 1861 was thus a retrograde measure in some respects. The character of the Legislative Councils established by it is best expressed in the following words. 'They are committees for the purpose of making law—committees by means of which the executive government obtains advice and assistance in their legislation, and the public derive the advantage of full publicity being ensured at every stage of the law-making process—the councils are not deliberative bodies with respect to any subject but that of immediate legislation before them. They cannot inquire into grievances, call for informamation or examine the conduct of the executive.'† Nevertheless, it has to be admitted that the Act took the first step on what was destined to be the road to Indian self-government.

The second important change of a constitutional nature effected

* Punniah : *The Constitutional History of India*, page 104

† *Report of Constitutional Reforms*, page 40—1.

by the Act of 1861 was the restoration of legislative powers to provincial governments which had been taken away from them by the Act of 1833, but with one vital difference.† This was the beginning of legislative devolution. The Act made provision for the establishment of similar legislative councils in the Bombay and Madras Presidencies, and empowered the Governor General to establish by proclamation similar bodies in the North West Province (Agra) and the Punjab. In other words, the Councils of the Governors (or Lieutenant Governors) of these provinces were to be expanded for purposes of law-making by the addition of not less than four and not more than eight members, not less than half of whom were to be non-officials. The powers of those Councils were much limited; they could make laws only on matters of provincial concern and were debarred from taking into consideration subjects like army, public debt, post and telegraphs. Laws passed by them required the Consent not only of the provincial Governor but also of the Governor General.

The Act of 1861 also enlarged the Council of the Governor General by the addition of a fifth member who was expected to be an expert in finance. Three of its five members were to be persons who must have served in India for at least ten years, and one of the two remaining was to be a member of the Faculty of Advocates in Scotland or a barrister of not less than ten years standing. It also empowered the Governor General to make rules and regulations for the convenient transaction of business in his Council. This enabled the Governor General, Lord Canning, to introduce the portfolio system in his Executive Council. The Act gave the Governor General the power to create new provinces for legislative purposes and to appoint Lieutenant Governors for them.

Reference should also be made to a new power granted to the Governor General for the first time by the Act, namely, the power to promulgate ordinances for the peace and good government of British India in an emergency. Such ordinances could have the force of law for a period of six months unless disallowed by the Crown, or superseded by an Act of the legislature.

† Formerly the laws enacted by the local legislatures were complete and came into operation of their own force. Now they required the assent of the Governor General.

The other provisions of the Act are not of much constitutional interest and are passed over.

High Courts Act.—Mention should also be made of another important Act passed by Parliament in 1861. This was the High Courts Act. It empowered the Crown to establish High Courts at Calcutta, Madras, and Bombay. Each of these High Courts was to consist of a Chief Justice and not more than fifteen other judges of whom not less than one-third were to be barristers, and not less than one-third members of the Civil Service. The Chief Justice could not be a member of the Civil Service. The Judges were to hold office during His Majesty's pleasure. On the establishment of these High Courts the old Supreme Court and the Sadar Diwani and Faujadari Adalats went out of existence. In short, the Act replaced the Company's great system of courts by a single High Court in each Presidency. It should also be borne in mind that after the assumption of responsibility for the government of India by the Crown in 1858 the Governor General began to be called Viceroy officially, though not in virtue of any statute. This title was indicative of his position as the direct representative of the Crown.

Many changes of an administrative and constitutional nature took place in India during the thirty years between the passing of the Indian Councils Act of 1861 and the Councils Act of 1892 which need not be described here. Reference will be made to some of them in the chapter dealing with the growth of the national movement. Here we would refer to the Indian Councils Act of 1892 and the Indian Councils Act of 1909 which possess great constitutional importance.

Indian Councils Act of 1892.—It has been stated more than once in the preceding pages that what distinguished the period of rule by the Crown from the preceding period of rule by the Company is the fact that in the former period the development of the constitution was very much influenced by the rise and growth of the nationalist movement in the country. The way in which the Indian Councils Act of 1892 was passed constitutes a good illustration of the truth.

As will be shown in the next chapter, the Indian National Congress was brought into existence in 1885 to educate and focus

public opinion in the country and give a lead to the people in political matters. It soon took up the question of reform of the legislatures as established under the Act of 1861 which had proved to be inadequate and disappointing to the people. The educated classes demanded the expansion of the Councils and an increase in their powers. In its very first session the Indian National Congress gave expression to this demand and passed the following resolution :

'This Congress considers the reform and expansion of the Supreme and existing local Legislative Councils by the admission of a considerable proportion of elected members (and the creation of similar Councils for the North Western Province and Oudh, and also for the Punjab) essential ; and holds that all Budgets should be referred to these Councils for consideration, their members being moreover empowered to interpellate the executive in regard to all branches of the administration.'

In other words, what the Congress demanded was the expansion of the Legislative Councils by the admission of more Indians to them, the creation of Legislative Councils in provinces where they did not exist, and an enlargement of their powers. At the second session also a similar resolution was passed, and emphasis was laid on the necessity of having a considerable number of *elected* members in the Councils. Charles Bradlaugh, member of the British Parliament and a great and consistent friend of India, attended the fifth session of the Congrees held at Bombay in 1889, and on return to England introduced a bill in Parliament embodying the demands of the Congress. This forced the British Government to make some move in the matter, and they introduced a bill of their own which, of course, went only a part of the way that Bradlaugh's bill had tried to go. Meanwhile Bradlaugh died in 1891, and the bill introduced by the Government became law and received the royal assent in 1892. It came to be known as the Indian Councils Act of 1892. Its enactment can be attributed to the pressure exercised by the ational Congress.

The Councils Act of 1892 achieved three things. It increased the number of additional members in the Central and Provincial legislatures and indirectly admitted the principle of election. The Governor-General's Legislative Council was to contain not less than ten and not more than sixteen nominated members, (as con-

trasted with the minimum of six and the maximum of twelve as laid down by the Act of 1861). Not less than ten of these additional nominated members were to be non-officials ; according to the earlier Act their proportion was one-half. The number of nominated and non-official members in the various provincial legislative councils was also increased. Under the rules made under the Act for the nomination of non-official members the Governor General was to nominate five persons on the recommendation of the Calcutta Chamber of Commerce, and another five on the recommendation of the non-official members of the Legislative Councils of Madras, Bengal and Bombay Presidencies, and the North-Western Province. In other words, the system of nomination on the basis of indirect election was introduced. The members of the provincial legislatures were to be nominated from among persons chosen by the local bodies which had come into existence; e.g., the municipalities and chambers of commerce. This curious method of nomination by the head of the State on the basis of indirect election was resorted to as a compromise between those who wanted the introduction of election and those who were opposed to it and favoured the current method of nomination. So, although the word 'election' does not occur in the Act – its use was carefully avoided—the principle of election was in fact conceded. Every recommendation made by the various bodies was, as a matter of fact, accepted by the Governor General and the Governors. In this (indirect) acceptance of the principle of election lies the momentous character of the change made by the Indian Councils Act of 1892.

In the third place, the Act enlarged the powers of the Legislative Councils. They were authorised to discuss the annual budget (but without the right to vote on it or to divide the house on any matter connected with it.) Under the Act of 1861 the Councils had no right to criticise and discuss the financial policy of the Government. The provisions of the Act of 1892 thus marked a great advance upon those of its predecessor. They enabled the non-officials to have free and full discussion on the financial policy of the government and gave the Government an opportunity to remove misapprehensions and meet their criticism. The Act gave the members of the Councils the right to put interpellations on matters of public interest, but without the power of asking supplementary questions. (The advance made by the Act of 1892 on that of 1861 may best be

expressed in the following words reproduced from the Report on Constitutional Reforms : 'Whereas in 1861 men had said, 'We had better hear a few Indians of our choosing have to say about our laws," they said in 1889, 'Our laws have positively benefited by Indian advice and criticism ; let us have more of it, and if possible, let the people choose the men they send to advise us.'

These gains might appear trifling to us in retrospect ; they failed to satisfy the people at that time too. It was pointed out that the Councils were not sufficiently representative of the people, and that the powers granted to them were hedged in by many restrictions. But the significance of the gains should not be minimised. The following evaluation of the Act by a critic seems to be apt : 'It was an attempt at compromise between the official view of the Councils as pocket legislatures and the educated Indian view of them as embryo parliaments. While no efforts were made to enlarge the boundaries of the educated class, to provide them with any training in responsible government, or to lay the foundations of a future electorate to control them, the Act deliberately attempted to dally with the elective idea.'*

The Act of 1892 was not meant to mark the beginnings of parliamentary system in our country ; the non-officials were in a minority, and the power to control the executive was not given to them even to the smallest degree. Nevertheless, it was a definite milestone on the road that led to the establishment of parliamentary government later on. It was the seed which was sown in 1892 which at a much later date sprouted and grew into a big tree inspite of the attempts made by the Indian bureaucracy to sterilise and kill it. With regard to the rules made for the nomination of non-official members to the Bombay Legislative Council it was remarked by Gokhale at the Lahore session of the Congress held in 1893 that if the officer who drafted them had been asked to sit down with the deliberate purpose of framing a scheme to defeat the object of the Act of 1892, he could not have done better.

The Indian Councils Act of 1909.—The next important landmark in the growth of Indian legislatures is the passing of the Indian Councils Act of 1909. As was the case with the Act of 1892, it was the political situation in India which led the British Government,

* Quoted by Punniah : *op. ct.*, page 114.

both in India and in England, to put it on the statute book. Non-official speakers in the Imperial Legislative Council and leaders of the Indian National Congress were claiming that the time had come for further expansion of the legislatures and a greater popular representation in them. (The Government realised that they could not shut their eyes to the changed and changing conditions, to the fact that as a result of the growth of education important classes of population had begun to realise their own position and were claiming equality of citizenship with the members of the ruling race. As a result of the policies pursued by Lord Curzon during his seven years' regime as the Governor General of India, particularly because of his attempts to officialise education and the Calcutta Corporation, and above all, the partition of Bengal, an extremist party led by three great leaders, Bal Gangadhar Tilak, Lajpat Rai and Bipin Chandra Pal had come to existence within the Congress and was challenging the old Congress policy and programme. In addition to this, a terrorist movement also made its appearance largely as a result of the ruthless and stern way in which the Government had tried to suppress the anti-partition agitation in Bengal. There was also much agrarian unrest in the Punjab, and political unrest in Bombay and elsewhere. British journalists like Chirol and Sydney Low, who had spent some time in sojourning in the country, wrote to the Governor General saying that in view of the new spirit they had witnessed in the country they felt that the country could not be governed in the old way and that the Government should deal with the Congress and Congress principles. Shri Gopal Krishna Gokhale made a public appeal to the Government to conciliate the people. He went to England and had several interviews there with the Secretary of State for India, Mr. John Morley, and tried to convince him of the necessity of further reforms in the country. Mr. Morley wrote a letter to Lord Minto in 1906 suggesting that the time was appropriate for introducing further reforms. This letter was the official genesis of the reforms associated with the names of Morley and Minto. After about three years spent in discussions and correspondence between the Secretary of State for India and the Government of India regarding the nature and extent of the contemplated changes, a bill was introduced in Parliament and passed as an agreed measure by all parties in 1909. This was the Indian Councils Act

of 1909. Before describing its provisions, mention must be made of a new factor which made its appearance in the political life of India and which was destined to affect her political life profoundly and adversely. This was Communalism.

When Lord Morley wrote to the Government of India suggesting reforms in the popular direction, a hint was thrown out from some interested quarters to the Muslims that the Governor General would be glad to receive a deputation of representative Muslims from all parts of India. The deputationists were advised to express sentiments of loyalty to the Crown, show grateful appreciation of the step the Government wanted to take by introducing reforms, and to express the apprehension of the community that if the principle of election were introduced without conceding separate representation to the Muslims, it would prove detrimental to their interests. The deputation did wait upon Lord Minto and it did demand separate and special representation for the Muslims. Lord Minto was very glad to express his entire accord with the deputationists in their demands. Much against his judgment and wish, Lord Morley was compelled by the Government of India to accede to this vicious principle of separate representation for the Muslims. This principle was first introduced into Indian political life along with the Morley-Minto Reforms.

The Act of 1909 did not inaugurate any new policy ; it simply improved the existing machinery for recognising the aspirations of educated men to share in the government of their country. The changes it introduced differed only in degree and not in kind from those introduced by the earlier Acts of 1861 and 1892. The Legislative Councils were expanded, and the association of the sons of the soil with the foreign rulers was increased ; they got greater representation in the various legislatures and had greater opportunities of expounding and expressing public opinion before the government ; they could also have hoped to *influence* the latter. But there was no grant of *responsibility* to Indians whatsoever. The Act of 1909 did not contemplate the transfer of power to the people even to the smallest extent. Lord Morley clearly and unequivocally stated in Parliament that there was no question of introducing parliamentary government in India. In a speech in the House of Commons he declared : 'I`it could be said that this chapter of reforms led directly

or indirectly to the establishment of parliamentary system in India, I for one would have nothing to do with it.' Lord Minto wrote to Mr. Morley as follows: 'Your Excellency's disclaimer for your government of being advocates of representative government for India in the westren sense of the term is not any more than was to be expected.' In short, what Mr. Morley and Lord Minto wanted to achieve by the Act of 1909 was to have a form of government in India in which the Government would be in a position to invite to its Councils representatives of all interests which were capable of being represented but reserve to itself *predominant* and *absolute* power. Such a form of government may be called constitutional autocracy.

The Indian Councils Act of 1909 greatly expanded the Legislative Councils in the country, increased the representative element in them, and enlarged their powers. The number of additional members of the Viceroy's Council was increased from a maximum of 16 to 60, those of Madras, Bombay, Bengal, U. P. and East Bengal to a maximum of 50, and of the Punjab to 30. This was a very large increase indeed. Except in the case of the Viceroy's Legislative Council, sometimes known as the Imperial Legislative Council which had an official majority, all the other Legislative Councils were given non-official majorities. It should however be remembered that they had *non-official* majorities but not non-official *elected* majorities, except in Bombay which had an *elected* majority. In other words, each Legislative Council had three types of members, nominated officials, nominated non-officials and elected members. The elected members were everywhere in a minority except in Bombay; they were outnumbered by the combined strenght of the officials and the nominated non-officials who could always be relied upon to vote with the Government.

The Act abandoned the old method of nomination of non-officials on the basis of recommendation by representative bodies, and introduced for the first time the principle of direct election. But not only was the franchise very limited, special or separate electorates were also created for the representation of various *classes* and *interests*. Among the interests which were given representation were landlords, chambers of commerce, Indian commercial interests, special interests like those of jute and tea plantations. Elected members were returned by constituencies such as municipalities, district

and local boards, universities, chambers of commerce, trade associations, ect. Muslims were given special and separate representation.

The functions of the Legislative Councils were also considerably enlarged. They were given the right to discuss and move resolutions on the annual budget. For example, any member of the Imperial Legislative Council could move a resolution 'relating to any alteration in taxation, any new loan or any additional grant to Local Governments' proposed or mentioned in the annual financial Statement of the Government. The House could be divided on some items included in the Statement. The Councils were also given the right to move and discuss resolutions upon questions of public importance and also claim a division on them. This right could be exercised only within certain limits ; certain subjects were not open to discussion by them, and the President was authorised to disallow any resolution on the ground that it was not in public interest to do so. The right to ask supplementary questions was also conceded. But it should be remembered that the resolutions passed by the Legislatures were merely recommendatory in character ; they were not binding on the government with whom rested ultimate decision in all cases. The various legislatures had no function other than that of criticism.

The Act empowered the Governor General to increase the number of members of the Executive Councils of Madras and Bombay up to four, and to establish by proclamation councils for Lieutenant Governors, except in the case of Bengal. Either House of Parliament could disallow such a proclamation.

Reference must be made to another important point connected with the Morley-Minto Reforms, though it does not form part of the Act of 1909. This was the appointment of two Indians as members of the India Council in England, and the inclusion of one Indian in the Executive Council of the Governor-General. Messers K. G. Gupta and Syed Hussain Bilgrami were made members of the India Council in 1907, and Mr. S. P. Sinha who later on became Lord Sinha, was given a seat in the Viceroy's Executive Council as the first Indian Law member. These appointments were a part of the policy of increasing the *association* of Indians with the work of the government in India.

The Act of 1909 constituted a great advance on the existing

situation, and it raised high hopes in moderate circles. Gokhale thought that its provisions modified the bureaucratic nature of the Indian Government and gave to the elected Indian members the opportunity to influence the executive. But he was soon disillusioned. He realised that once the Government had made up its mind on an issue, nothing that that the elected Indians might say in the Council could make any change in that decision. Gokhale was clearly over-optimistic in thinking that the reforms offered the elected Indians '*responsible association* with the administration' ; the Act of 1909 was not designed to transfer even the smallest degree of responsibility to the people of India. Nay, as Dr. Zacharias points out, its essence 'lay in conceding what was at once evacuated of all meaning. Thus the elective principle of democracy was adopted : yet at the same time the anti-democratic commuunal representation was added. The official majority was done away with : but the elected members remained in a minority. The membership was considerably enlarged: but an emphatic disclaimer was issued simultaneously that the new Councils in no way meant the introduction of a parliamentary system. The Council of India and even the Viceroy's Executive Council were opened to some very few and very select Indians : but the liberal aspect of admitting Indians to the *arcana* of government could in no way disguise the fact that real power remained safely in British hand.'*

The real significance of the Councils Acts of 1861, 1892, and 1909 lies in the fact that each one of them marked a stage in the gradual and slow evolution of representative institutions in our country. Each was a step forward on the road that finally led to the establishment of full responsible government after a hard struggle against the powerfully entrenched bureaucracy. But the Legislative Councils established under them were not real legislatures ; they were committees by means of which the executive governments obtained advice and assistance in their legislation, and the public derived the advantage of publicity being ensured at every stage of the law-making process. In so far they were empowered to deliberate on different subjects and to enquire into grievances and call for information by the Act of 1909, they acquired to a certain extent the character of a legislature in the strict sense of the term.

* Zacharias. *Renascent India*, page 158.

CHAPTER III

The Rise and Growth of the National Movement 1858—1918

Introductory.—In view of the very intimate connection between the rise and growth of the national movement and the constitutional development in our country during the rule by the Crown, we should have given an account of the establishment of the Indian National Congress in 1885 and of the events which led up to it before describing the provisions of the Indian Councils Act of 1892. We should also have described the circumstances which resulted in the formation of the extremist party during the first decade of the twentieth century and the rise of terrorism before dealing with the reforms associated with the names of John Morley and Lord Minto. But we preferred to give up the order of treatment as demanded by logical considerations, as it would have disturbed the continuity of our account of constitutional growth as well as of the national movement. In this chapter we shall deal with the birth of Nationalism and its growth up to the end of the First World War.

Some features of the National Movement.—For a clearer understanding of the nature of the Indian national movement we should always remember that it was not an isolated phenomenon ; it was a part of the Renaissance of India which may be said to have begun with Raja Ram Mohan Roy and cannot be regarded as over yet. As Dr. Zacharias points out, the Renascence of India is fundamentally a matter of the spirit , it first manifested itself in the form of a general Reform Movement and 'produced striking religious and social reforms long before it issued in a movement for political emancipation.'* This means that the various religious and social reform movements which seized the Hindu community in the first three quarters of the last century and the national movement which took a definite and organised form with the establishment of the Indian National Congress in 1885 form part of an integral whole ; the latter cannot be studied apart from the former which prepared the soil for its emergence and impressed a definite character

* Zacharias : *Renascent India*, page 15.

on it. This is the reason why writers like Dr. Zncharias and Dinabandhu Andrews preface their accounts of the rise and growth of the national movement in India with a brief statement of the work of the Brahmo Samaj, the Arya Samaj, the Theosophical Society, and the Ramkrishna Mission and other reform movements which constitute, in and between themselves, the Hindu spiritual and cultural renaissance, and have materially contributed to the national awakening. We shall also devote some space to their study.

The second thing to be remembered in connection with the growth of Indian Nationalism is that it is indissolubly associated with the rise and growth of the Indian National Congress. This should not be taken to mean that the activities of no other political party had any effect on the course and character of the national movement ; this would be obviously untrue. The growth of communalism in our country profoundly affected the national struggle for freedom ; and so did the emergence of the terrorist movement, though to a much smaller degree. Neither of them forms part of or is connected with the Indian National Congress. Nevertheless, it can be maintained that it is the work of the Indian National Congress to have made the people conscious of their national unity, conscious too of the insult to national freedom involved in foreign rule, to have organised and led the struggle for national freedom and ultimately to have won it. In this sense, and in this sense alone, one can say that the story of the rise and growth of the Indian National Congress is the story of the rise and growth of Indian Nationalism.

Factors which gave rise to the National Movement.—In every country in the world the national movement is the cumulative effect of the operation of a number of influences operating over a longer or comparatively shorter period. In India the period was fairly long ; it may be said to cover nearly half a century preceding the establishment of the National Congress in 1885. It was long because of the peculiar circumstances prevailing in the country ; namely, the demoralising effects of foreign despotic rule lasting for several centuries. The forces which prepared the soil for it and materially contributed to its emergence were also more varied and of a somewhat different character from those usually found in other countries. In this section we would discuss at some length these

factors, the more important of which are the religious awakening in the country, the spread of English education, the economic and political consequences of British rule, the rapid improvement of means of communication, the rise of the Indian Press, the various events which took place in the seventies of the last century, and political movements in western countries.

(*i*) **The Religious Awakening.**—As has been pointed out above, the religious and social reform movement, which started with Raja Ram Mohan Roy and found its latest and most notable leader in Mahatma Gandhi, and the national movement are parts or stages of the great Indian Renascence. One of the most important characteristics of Indian Nationalism is its basis and inspiration in religious awakening. When Mahatma Gandhi declared that politics bereft of religion are immoral, and based his movement on Truth and Ahimsa, he only made explicit what was implicit in the preceding phases of Indian nationalism. Apart from this, it should be remembered that it was the spiritual and cultural renaissance of Hinduism as represented in the Brahmo Samaj, the Arya Samaj, the Theosophical Society and the Ramkrishna Mission, etc., that made the national awakening possible ; in the absence of the former the tatter could not have taken place. It is necessary to understand the manner in which the religious and social reform movements paved the way for the emergence of a strong and virile nationalism.

The hundred years immediately preceding the establishment of the Brahmo Samaj in 1828 by Raja Ram Mohan Roy have been rightly described as the Dark Age of India. In this period Indian cultural and national life had touched a very low ebb ; Hinduism had almost wholly lost the vitalising power and spark of life which, in the past, had produced a glorious and marvellous culture. The people of India had forgotten the sublime truths of the Upanishads and the Vedanta ; their spiritual yearning had been replaced by a soulless observance of dogmas and an enervating adherence to empty rituals. Instead of worshipping one Supreme God, the Hindus had taken to the worship of a innumerable gods and goddesses, and an idolatry of low type had taked the place of the contemplation of the impersonal Brahman. Evil practices like compulsory sati, enforced widowhood, untouchability, girl infanticide, and an extremely rigid caste system recognising thousands

of castes and sub-castes were eating into the vitals of the social body. Culturally she stood stupefied against the apparently superior civilisation of the western conqueror. The process of internal disruption set going by the loss of political power was accelerated by the effects of western education which had made educated Indians conversant with materialistic and atheistic findings of nineteenth century European scientists. To these seriously disquieting and highly disturbing influences were added the activities and preachings of the Christian missionaries who poured ridicule on Hindu religious beliefs and practices. Their official position lent glamour to their preaching, and together with winsome manners and, in many cases, with genuine love for the people of the country, they were winning converts to their faith by thousands. The citadel of Hinduism was badly shaken, and it seemed to be on the verge of extinction.* Under such conditions there could be no political awakening ; the stupefying influence of contact with a virile and apparently superior civilization had first to be counteracted and the faith of the people in them selves and their glorious heritage revived, before any national awakening could be possible. This is exactly what the various religious and social reform movements named above achieved.

Raja Ram Mohan Roy, the founder of the Brahmo Samaj, realised that if Hinduism was to be made capable of successfully withstanding the onslaughts made on it by Christianity, it should be pruned and reformed. He wanted to bring his countrymen back to the purity of ancient Hinduism, and for his purpose founded the Brahmo Samaj. Its central conception was that of a 'Formless God', the eternal, unsearchable and immutable Being who is the author and preserver of the Universe. He alone deserves to be worshipped and no other god or goddess. The Brahmo Samaj repudiated idol worship, and preached religious toleration. It also stood for social and educational reform. It worked for the abolition of evil practices like sati, enforced widowhood, early marriage, observation of untouchability, and a rigid caste system. It also worked for the emancipation of women from all sorts of social inequality. Raja Ram Mohan Roy was instrumental in bringing into existence several institutions for imparting English education to his countrymen. Quite rightly and justly he has been described as

* Reproduced from the author's *Civic Life of India*, page 105.

the Prophet of Indian Nationalism, as the herald of a new era. In the words of Dr. Macnicol, he kindled the fire that has burnt in India since then.

What Raja Ram Mohan Roy and the Brahmo Samaj did for Bengal, Swami Dayanand Saraswati and the Arya Samaj founded by him achieved for north-west India. Swami Dayanand was the first Indian to declare 'India for Indians' ; he inculcated in the people the spirit of independence and love for India and things Indian. The Arya Samaj worked wholeheartedly for the removal of untouchability, the abolition of caste system and enforced widowhood, etc. It worked not merely for a religious revival, but also for a national revival ; it brought new life to the Hindu race. On account of the marvellous awakening created by the Arya Samaj and the spirit of independence it infused in the people it became suspect in the eyes of the foreign government.

The work of the Theosophical Society was of a similar nature in the South. Col. Olcott, one of the founders of the Society, delivered many speeches in the South in which he sought to rouse the Hindus to a sence of their degeneration and urged them to separate 'the splendid Hinduism of the past from the excresences that were draining away its life.' The remarks of Sir Valentine Chirol about the effect of the work of Col. Olcott and Mrs. Annie Besant deserve to be quoted. He writes as under : 'The advent of the Theosophists headed by Madame Blavatski, Col. Olcott, and Mrs. Besant gave a fresh impetus to the revival, and certainly no Hindu has done so much to organise and consolidate the movement as Mrs. Besant, who in her Central Hindu College at Banaras and her Theosophical Institution at Adyar near Madras, has openly proclaimed the superiority of the whole Hindu system to the vaunted civilization of the West. Is it surprising that the Hindus should turn their heads back upon our civilization, when a European of highly trained intellectual power and with an extraordinary gift of eloquence, comes and tells them that it is they who possess and have from all times possessed the key to supreme wisdom, that their gods, their philosophy, their morality, are on a higher plane of thought than the West has ever reached.'

The influence of Sri Ramkrishna Paramhansa and his great and famous disciple, Swami Vivekanand who is regarded as the

Patriot Saint of India was no less than that of other religious reformers in making Indians feel proud of their ancient heritage. Swami Vivekanand urged his countrymen to arise, awake and stop not till they conquer the world with their spirituality.

It would be thus clear how the work of the various religious and social reformers and the influence of the religious awakening they brought about were among the most potent causes of the growth of Indian Nationalism. It is worth remembering that on previous occasions too, religious inspiration was the cause of political awakening in our country. It was the religious teaching of Samarth Guru Ramdas which made Shivajee possible, and it was Guru Govind Singh who laid the foundations of the Sikh rule in the Punjab. This religious foundation of our national movement has impressed upon it a character which distinguishes it from national movements in other lands, namely, its spiritual of religious basis.

Somewhat similar was the effect of the work done by European and Indian scholars like Colebrook, Wilson, Max Muller, Moiner Williams, Roth, Sasson, Raja Rajendra Lal Mitra and Dr. Pandu Sen and others who were full of praise for the ancient Indian culture and civilization. They revealed to the educated Indian as well as to the Western reader the glory and greatness of ancient India and imparted to the former a sense of self-confidence, Indians naturally felt overwhelmed with joy when they heard the praise of the achievements of ancient Hindus from Western scholars.

(*i*) *Western Education.*— Scarcely less important than the religious awakening as a factor contributing to the emergence of Indian Nationalism was the spread of Western education. Its effects were, however, of a different nature. Whereas the various religious and social reform movements created the soil for national awakening by reviving the faith of the people in their own culture and civilization and making them feel proud of their heritage and thereby instilling a sense of self-confidence in them, the spread of English education brought them into touch with the works of great European thinkers and writers like Milton, Burke, Mill, Macaulay, Herbert Spancer, Rousseau, and Voltaire. It meant an education primarily in English thoght produced during the age of Liberalism with its two main tenets of nationalism and democracy. Indians

who read the political classics of English writers from Milton to Mill imbibed the life-giving ideas of liberty, nationality and self-government. They took it for granted that nations should be free and that freedom meant the establishment of self-government. They learnt from British history that British Liberalism 'had backed the cause of nations rightly struggling to be free in South America, in the Balkans, in Italy, in Ireland. They found that Britain was not only the most powerful champion of popular government in the West, but had also evolved a particular form of it, which......... seemed the best of all possible forms. They learnt, finally, that this particular British form of government, parliamentary responsible government, could be transplanted : that, in fact, since the morrow of the American Revolution, it had been gradually extended to the British self-governing colonies overseas.'* Farsighted Englishmen expected the growth of such ideas as the natural result of the diffusion of English education. Sir Charels Trevelyan observed as early as 1838 that among those who had received English education 'the most sanguine dimly look forward in the distant future to the establishment of a national representative assembly as the consummation of their hopes—all of them being fully sensible that these plans of improvement could only be worked out with the aid and protection of the British Government by the gradual improvement of their countrymen in knowledge and morality.' Sir Richard Temple at a later date wrote as follows : "The educated Natives are moved by the aspirations for self-government, for the political power, and even for representative institutions, the concession of which does not at present fall within the range of practical politics."

The effect of the propagation of ideas of nationalism, democracy, self-government, rights of citizene etc., was the creations of an expanding section of middle-class intelligentsia whose chief public interest lay in politics and in the possibility of the growth of representative form of government in the country. It was this class which provided leadership to the National Congress. As English education spread, the size of this middle-class intelligentsia also grew, and its members came to be linked up with one another by a common conception of India's political destiny. They believed

* Coupland : *India, A Restatement*, page 88.

that India was a nation and was therefore entitled to national freedom, and that the best way to achieve it was the introduction of parliamentary institutions on the British model.

The following passage from Tagore quoted by Andrews in his *Rise and Growth of the Indian National Congress* describes in a forceful way the effects of the study of English literature made available to the Indian students : 'We had come to know England through her glorious literature which had brought a new inspiration into our young lives. The English authors, whose books and poems we studied, were full of love for humanity, justice, and freedom. This great literary tradition had come down to us from the revolution period. We felt its power in Wordsworth's sonnets about human liberty. We gloried in it even in the immature production of Shelley written in the enthusiasm of his youth when he declared against the tyranny of priestcraft and preached the overthrow of all despotisms through the power of suffering bravely endured. All this fired our youthful imaginations. We believed with all our simple faith that even if we rebelled against foreign rule, we should have the sympathy of the West. We felt that England was on our side in wishing to gain our freedom.'

It would not be too much to say that the cult of nationalism and the call for self-government would not have come to us with such force and so quickly, if those responsible for shaping the educational policy of the Company's government in 1833 had decided to promote oriental learning instead of encouraging English education.

The growth of English education contributed to the growth of Nationalism not only by making the people familiar with the ideas of liberty, democracy, self-government, etc., but also indirectly by creating discontentment among the educated class. As the number of educated Indians increased, it became more and more impossible for the Government to find employment for them in public departments. This naturally led to discontentment among the former and they began to evince increasing jealousy of any monopoly of advantage being maintained in favour of Europeans. As will be shown later, men like Surendra Nath Bannerjea who had been dismissed from the Service and men like Manmohan Ghosh and Lalmohan Ghosh who failed to get admitted to this much coveted Service played

a notable part in strengthening the National movement. Shri Mazumdar writes in his book *History of Political Thought from Rammohan Roy to Dyanand* that 'it is not unlikely that Bankimchandra, the greatest exponent of Nationalism in India, took to the preaching of this theory after he had met with disappointment in service.'

English education contributed to the growth of nationalism in our country in two other ways also. It provided a common language which people from different parts of the country could understand and through the medium of which they could communicate with each other and transact their common affairs. In the absence of such a *lingua franca*, the evolution of an institution like the Indian National Congress would have become extremely difficult. The use of English language as a common medium for the exchange of thought for the whole country made for the unification of the country which is so necessary for the growth of the spirit of nationalism. Secondly, reference must be made to the experience of those Indians who went to Great Britain for the completion of their studies. While in England they were received cordially and on terms of social equality. There they imbibed the spirit of equality, freedom and independence. On their return to India they found a different atmosphere altogether ; in place of cordiality they met with an attitude of aloofness and rigidity, and in place of social equality the attitude of snobbery and the spirit of overlordship on the part of the Britishers. Such a great difference in the relationship between Indians and Britishers in the two countries could not but generate great dissatisfaction and resentment in the minds of England-returned Indians, and their dissatisfaction was very infectious.

If, on the one side, the spread of English education instilled in the minds of the educated young men ideas of liberty and self-government and became the foster-mother of nationalism, on the other side, it weaned many a young man from his ancestral religion and culture. Some of those who received it lost their sense of balance and proportion and became denationalised ; they gave up their own ways of life and began to ape European manners. The dream of Macaulay was realised to a certain extent ; a class of persons 'Indian in blood and colour but English in taste, opinion, words and intellect', was coming into existence. These evil effects were counterbalanced by the rise of the Brahmo Samaj in Bengal,

Prarthana Samaj in Bombay and the Arya Samaj in the Punjab and U. P., and of Theosophy in the South. On the whole, English education proved to be a great blessing ; it created political conciousness among the middle class intelligentsia and served to unite the varying forces among the Indian population.

(*iii*) The unification of India under a strong and highly centralised government and the development of quick and safe means of travel from one part of the country to another were of great value as aids to the growth of the spirit of nationalism. The Government of India was the supreme authority for the whole country and the various provincial governments were its instruments or agents and subject to its control in legislation, finance and administration. The Central Government was therefore compelled to think in terms of the whole country while determining its economic and military policies. The presence of All India Services whose members could be transferred from one province to another and the codification of laws also materially assisted in the growth of the idea of India as one country and of her people as constituting one nation. This sense of the unity of India was greatly helped and promoted by the development of speedy means of communication like the railways and postal and telegraphic services, which enabled individuals to travel with ease, speed and safety from one part to another and to communicate with one another at any time and any distance. These speedy means of conmmunication facilitated the forging of a large number of social and economic links between the different parts of the country. This process of unification was greatly assisted by the growth of higher education. British rule thus created conditions which gave rise to political and national awakening.

(*iv*) The economic policy pursued by the Government of India, under both the Company and the Crown, led to the destruction of Indian industries and the impoverishment of the people. It is not necessary to describe here the systematic way in which the Company managed to kill Indian industries, or the highly adverse effects on the nascent Indian large-scale industries produced by the adoption of the policy of free trade in the interest of Lancashire. The deteriorating economic condition of the people and the policy of excluding Indians from high posts in the administration created

a good deal of anti-British feeling in the minds of the educated classes and thus they were great spurs to the growth of nationalism. This economic factor continued to operate for long after the birth of the Indian National Congress in 1885.

(*v*) The failure of the Government to give effect to the policy of appointing Indians to high posts also gave a great stimulus to the national movement ; a few words about it seem to be necessary here.

It would be recalled that the Act of 1833 contained a clause which laid down that henceforth fitness was to be the criterion of eligibility and that no Indian 'shall by reason only of his religion, place of birth, descent, colour or any of them, be disabled from holding any place, or employment under the Company.' This raised high hopes in the minds of educated Indians whose number was rapidly increasing and who naturally expected to get suitable and adequate employment ; but they were not fulfilled. No Indian was appointed to a single responsible post during the succeeding twenty years. The result was that when the time for the renewal of the Charter came in 1853, the inhabitants of the three Presidencies sent largely signed petitions to the British Parliament opposing the extension of the Charter of the Company for any further term. This was perhaps the first manifestation of the awakening of public and political life in the country. It demonstrates that the resentment and bitterness caused by the non-fulfillment of promises and the exclusion of the sons of the soil from share in the administration of the country are a highly potent factor in the growth of the spirit of nationalism. The mistake was repeated time and again. The Proclamation issued in 1858 soon after the assumption of the responsibility for the Government of India by Queen Victoria produced a great outburst of the feelings of loyalty on the part of the people of India, but it was replaced by anger and resentment when it was found out that it remained a pious wish and did not produce any change in the policy of the Government. Some of the most highly gifted young men of Bengal tried to enter the hitherto closed arena of the Civil Service, which was thrown open to competition as a result of agitation carried on since the days of Raja Ram Mohan Roy, but could not succeed. The storm of indignation raised by the disqualification of Surendranath Bannerjea and Aurobindo Ghosh from the Civil Service on technical grounds to

which reference will be made in a following section also illustrates the same point.

(*vi*) Mention should also be made of another very valuable and powerful factor which rendered great help in creating and fostering national consciousness in our country; namely, the Indian owned and managed press, both English and Vernacular. It had grown rapidly with the spread of education. 'In 1877 there were in Indian languages alone 62 papers in the Bombay Presidency and about the same number in northern India, some 28 in Bengal and about a score in southern India, and their total circulation reached the neighbourhood of 100,000. Newspapers in English found an even larger public.'* These Indian owned and edited papers generally supported the nationalist cause and were critical of the doings and policies of the Government ; whereas the British owned and edited papers were anti-national and pro-government. In the beginning the Indian Government adopted the principle of freedom of press in conformity with British traditions. But it felt much annoyed with the irresponsible and sometimes bitterly hostile attitude of the vernacular press ; and in 1878 passed the Vernacular Press Act which sought to subject the press to control and restrictions. This measure provoked great resentment and opposition both in India and in England and was revoked four years later. Restrictions were however re-imposed upon the Indian press at a later stage ; but inspite of the restrictions it continued to advocate the cause of Indian nationalism and agitate for political reforms. Its role in fostering patriotism and developing nationalism has been great and active.

(*vii*) It would not be wrong to refer to another factor which indirectly contributed to the growth of nationalism in our country ; namely, the feeling of racial bitterness and hostility against the Britisher. This was a legacy left by the Mutiny, and was kept alive by the high-handed and contemptuous way in which the Britishers sometimes dealt with the people. Indians, even though they might have held high position in society, were not admitted to European clubs, and were treated arrogantly by the White Sahibs. Assaults on Indians by Europeans were not infrequent ; and what is worse, they either went unpunished or a very small penalty was imposed

* Philips : *India*, page 94.

on the European culprit because of the pressure of the European community. The administration of criminal justice thus became a scandal where Europeans were involved. The following extract from Sir Henry Cotton's famous book, *New India*, is highly revealing on this point. He writes : 'If a tea planter is charged with an outrageous assault upon a helpless coolie, he is tried by a jury of planters whose natural bias is in his favour ; but, if in any circumstances, such as interference by the High Court or otherwise, a conviction should ensue, the whole volume of English opinion finds expression in denouncing the verdict, the Anglo-Indian newspapers add fuel to the flame and give free vent to this protest in their columns, public subscriptions are raised to pay the expenses of the culprit, and influentially signed memorials are addressed to the Government praying for his release.' The natural result of such an attitude would be the intensification of the feelings of racial bitterness which in turn makes for the growth of nationalism.

(*viii*) It remains to describe several notable events which occurred during the seventies of the last century and led directly to the establishment of the Indian National Congress in 1885. In their totality they may be said to constitute the political factor.

After a year's hard work in England Surendranath Bannerjea passed the open competitive examination for the Indian Civil Service in 1869 but was disqualified on account of a technical discrepancy along with another successful candidate. This act roused bitter and intense indignation in India, more particularly in Bengal ; and many notable and leading personalities and the press condemned it. The matter was referred to the Queen's Bench Division for adjudication, and it was decided in favour of the disqualified candidates and they were reinstated in the Civil Service. Mr. Surendranath Bannerjea came to India and was posted as an Assistant Magistrate in November 1871. But after about two years service he was dismissed on certain flimsy charges. He writes about this incident in his autobiography as under : 'My case excited very strong feeling in the Indian community, and the general belief among my countrymen was that, if I were not an Indian, I would not have been put to all this trouble, and that the head and front of my offence was that I had entered the sacred preserves of the Indian Civil Service, which so far had been jealously guarded against invasion by the

children of the soil. Many years afterwards a Lieutenant Governor told me that it was a wicked proceeding.'* It should be remembered that in spite of Queen Victoria's Royal Proclamation Mr. Surendra Nath Bennerjea was the *second* Indian to be appointed to the Civil Service. Later on Mr. Aurobindo Ghosh was also disqualified for the Civil Service on technical grounds. Such treatment meted out to the sons of the soil could not but produce resentment and bitterness. The observations of Mr. Bannerjea on his dismissal made in his autobiography '*A Nation in Making*' are worth quoting in full. He writes : 'I felt that I had suffered because I was an Indian, a member of a community that lay disorganized, had no public opinion, and no voice in the councils of their government. I felt with all the passionate warmth of youth that we were helots, hewers of wood and drawers of water in the land of our birth. The personal wrong done to me was an illustration of the helpless impotency of our people. Were others to suffer in the future as I had suffered in the past ? They *must*, I thought to my self ; unless we were capable as a community of redressing our wrongs and protecting our rights, personal and collective. In the midst of impending ruin and dark, frowning misfortune, I formed the determination of addressing myself to the task of helping our helpless people in this direction.'† The first thing he did on his return from England where he had gone a second time to qualify for the Bar was to start the Indian Association which was designed to be a political association to represent the educated middle class. This Association came into existence in 1876, and soon became the centre of leading representatives of the educated community and focussed their public spirit. The decision of the Secretary of State for India to reduce the maximum age limit for the open competitive examination for the Indian Civil Service held in England from twenty-one to nineteen years made it almost impossible for Indian students to compete for this examination. This most reactionary act was regarded as a deliberate attempt to blast the prospects of Indian candidates for the Indian Civil Service ; it gave the new Association an opportunity to realise some of its ideals. It resolved

* *A Nation in Making*, page 29.

† Page 32-33. It should be remembered that Mr. Surendranath Bennerjea was shut out from the Bar by the Benchers of the Middle Temple on the ground that he had been dismissed from the Civil Service.

upon organizing a national movement. A great public meeting was held at Calcutta on March 24, 1877. Surendranath Bannerjea was deputed to visit different provinces and hold meetings in important towns. He visited Lahore, Amritsar, Meerut, Allahabad, Kanpur, Lucknow, Aligarh and Banaras, addressed crowded meetings, and wherever possible, established political organizations to act in concert with the Indian Association. A network of organizations was thus established, and foundations for united and concerted action laid. Wisely has it been remarked that reactionary rulers oftentimes create great public movements. This agitation against the lowering of the age limit marked the beginning of national awakening, unity of action and solidarity of purpose. It showed, in the words of Surendranath Bannerjea himself, that 'whatever might be our differences in respect of race and language, or social and religious institutions, the people of India could combine and unite for the attainment of their common political ends.'*

The lowering of the age limit for the Civil Service examination was not the only act which gave the Indian Association an opportunity for conducting a nation-wide agitation. The regime of Lord Lytton as Governor-General was full of such acts. He held an Imperial Durbar at Delhi to announce Queen Victoria as the Empress of India. The Durbar was held in 1877 at a time when parts of the country were in the grip of a severe famine. This provoked from a Calcutta journalist the comment that Nero was fiddling when Rome was burning. The Durbar however came as a blessing in disguise. It struck men like Surendranath Bannerjea who had gone there as a press representative that if the princes and the nobles in the land could be forced to form a pageant for the glorification of an autocratic Viceroy, why could not the people be gathered together to unite themselves to restrain, by constitutional means and methods, the spirit of autocratic rule.† The idea was discussed in associations and the press, took root in the minds of leading persons, and finally led to the establishment of the Indian National Congress. Thus sometimes good cometh out of evil.

Lord Lytton was responsible for putting on the statute book two most obnoxious measures, the Vernacular Press Act of 1878,

* *Ibid*, page 51.

† A. C. Mazumdar : *Indian National Revolution*, pages 32-33.

and the Indian Arms Act of the same year. In 1835 the government of Sir Charles Metcalfe had abolished the strict censorship imposed upon the press since 1799, and restored its freedom. Since then the vernacular press began to progress rapidly, and by 1877 there were 644 newspapers in British India, and a great majority of them were conducted in vernacular. The educated people had developed a taste for paper reading, and even the illiterate would love to listen to 'a single reader of these papers at a stationery stall or a grocer's shop.' Some of these papers might have been unbalanced in their criticism of the government, but they never lost touch with the new spirit of the age. The government of Lord Lytton got alarmed at the rapid growth of the power of the press and on the 13th of March, 1878, sent a telegram to the Secretary of State seeking permission to enact a special measure to stop the activities of the press which were becoming seditious. The permission was obtained the next day, and within two hours the Vernacular Press Act was passed. The Act, popularly known as the Gagging Act, roused a storm of protest all over the country, most particularly in Bengal where it was enforced with great stringency. A monster meeting was held in Calcutta to protest against it. Regarding this meeting Mr. Surendranath Bannerjea writes as follows : 'It was one of the most successful meetings ever held in Calcutta. It sounded the death-knell of the Vernacular Press Act, and what is more important, it disclosed the growing power of the middle class, who could act with effect for the protection of their interests, even though the wealthier classes were lukewarm, and official pressure was openly arrayed against them...It indeed marked a definite and progressive stage in national evolution, and was the creation of the builders of the Indian Association.'* The agitation was continued and the Act repealed four years later by Lord Ripon.

The Arms Act was another terrible engine for repression. It still stands on the statute book in spite of the repeated efforts of the National Congress to get it repealed. It made it a penal offence to keep or bear arms and to traffic in arms without a license. Heavy penalties were imposed for infringing the provisions of the Act. Licenses were very sparingly granted. One of the worst features of the Act was the racial discrimination it introduced. The rules made under it exempted from its operation Europeans, Anglo Indians and cer-

* *A Nation in Making*, page 62.

tain government officials. It emasculated the whole nation and made it impossible for the people to offer resistance to any foreign invader. At a very late date, however, there was some relaxation in some of its provisions.

Amongst other foolish things done by the government of Lord Lytton which drove the country into despair were the wanton invasion of Kabul followed by the second Afghan War, the costly experiment of establishing a 'scientific frontier,' and the abolition of the cotton import duty to placate Lancashire. As a result of these and other actions, 'the state of things at the end of Lord Lytton's regime was bordering on revolution.'

(*ix*) Finally, reference should also be made to the effect produced on the mind of young India by political movements in several European countries. Germany, Italy, Roumania, Servia and Montenegro attained unification between 1861 and 1884. During this period England saw the passing of the Second and Third Reform Acts which made the British Constitution much more democratic than what it had been in the past, and France witnessed the establishment of the Third Republic. In Italy and Spain also constitutional monarchy was set up during this period. As a result of the American Civil War slaves were liberated in the U. S. A. Even Russia had some liberal policy during the reign of Alexander II. All these events were watched with deep interest by the educated classes in our country who began to hope that they also could secure for their country some of the benefits which other countries had obtained.

(*vi*) *Ilbert Bill Agitation*—The diverse events described above. effective as they were in having stimulated political awakening among the educated middle class on a somewhat national scale, antedated the founding of the Congress by several years. None of them was an *immediate* occasion for the great event of 1885, which the opposition against the Ilbert Bill organised by the Europeans in India proved to be. This topic deserves a few words.

According to the then existing law Europeans outside the Presidency towns could be tried only by European judges or magistrates. Indian magistrates, whatever their rank might be, were not empowered to try them even though their European subordinates, if any, had that power. This was an anomaly and an invidious distinction between Indian and Europeans members of the Indian

Civil Service. On a representation being made by an Indian I. C. S. the matter was taken up by the government of Lord Ripon whose Law Member, Sir Courtney Ilbert introduced a measure in the Legislative Council in 1883. It was designed to remove the highly objectionable disqualification attaching to the Indian judges and magistrates in the trial of European offenders and thus do away with the racial discrimination involved. But the Bill met with such stern and bitter opposition from the European community, both official and non-official, that it had to be withdrawn.* The manner in which the Europeans organised the agitation by setting up a defence association with its head-quarters at Calcutta and branches in different parts of the country and collecting one lakh and a half of rupees for meeting the expenses was an object lesson to Indians whose support to the Bill was week and almost unorganised.

The Ilbert Bill agitation was an eye-opener to Indians in several ways.. In the first place, it clearly showed that justice was not to be expected where vested interests and privileges of the governing race were involved. In the second place, it demonstrated the value of organised agitation. People realised that in political matters what mattered was not the justice of the cause but united and concerted action. They 'further felt that if political advancement were to be achieved, it could only be by the *organisation of a national assembly wholly devoted to wider politics than hitherto pursued in the different provinces independently of each other.*'† The idea caught the imagination of thinking persons in Bombay, Bengal and Madras Presidencies where new associations came into being to create public opinion upon political, social and economic matters. These associations were the fore-runners of the Indian National Congress.

The Indian Association of Bengal called a 'National Conference' in Calcutta in 1883. It was attened by leading men from all over the province. It was in this conference that Surendranath Bannerjea exhorted the people to organise and unite for the cause of the *country*. It adopted a programme of action substantially

* We are not here concerned with the further progress of the Bill in a modified form. It is sufficient to state that a compromise was arrived at between the Government and the Europeans according to which the Indian District Magistrates and Sessions Judges were empowered to try European accused on condition that the latter were given the right to claim trial by jury at least half of whom must be European members.

† A. C. Mazumdar : *Indian National Evolution*, page 39 ; italics mine.

similar to the one adopted by the Congress two years later. Its three days' session and the enthusiasm and eagerness which characterised its activities were later on to become features of the Congress. A provincial Conference was also held in Madras in 1884. In Bombay also the Bombay Presidency Association was ushered into existence in January 1885, in which persons like Mr. Badruddin Tyebjee, Pheozshah Mehta, K. T. Telang, and Dinshaw Eduljee Wacha took part. In this connection it is also necessary to mention that in December, 1884, after the Annual Convention of the Theosophical Society at Adyar was over, seventeen prominent men representing all parts of India met at the house of Dewan Bahadur Raghunath Rao in Madras 'to find ways and means of bringing together Indian politicians to inauguarate a political movement for the regeneration and reform of methods of government of this country, calculated to promote a future advance towards Swaraj.' They resolved 'to form themselves into a group of provisional committee, men from different towns to win others, each in his own place, and to meet later for further consultation.'*

The Birth of the Congress.—While these associations were being formed in different provinces and the press was urging the people to unite on a common platform and under a common standard, Mr. Allan Octavian Hume, a retired member of the Indian Civil Service. addressed an open letter to the graduates of the Calcutta University 'urging them to organize an association for the mental, moral, social and political regeneration of the people of India.' According to Shri Ambika Charan Mazumdar this appeal did not go in vain. These two streams met, and the Indian National Union was formed towards the close of 1884. In March 1885 the Union decided to hold a meeting of representative Indians from the different parts of the country at Poona during Christmas week. This conference was called with the two-fold object of enabling all the earnest workers in the cause of the country to become acquainted with one another, and discussing and deciding upon the political operations to be undertaken during the ensuing year. Mr. Hume was put in charge of organising it and settling the details. From several points of view Mr. Hume was the best person for this responsible duty. He made full use of his position as an ex-civilian in enlisting official sympathy and support. He paid a visit to

* Annie Besant : *How India wrought for Freedom*, page 1.

England and succeeded in securing the goodwill and interest of several men of eminence there. The official sympathy thus obtained was highly useful in helping the Congress to get a good start. Owing to an outbreak of cholera at Poona a few days before the Conference was to meet, its venue had to be shifted to Bombay, much to the disappointment of the Poona citizens. The delegates to the Conference arrived at Bombay on the morning of December 27, 1885, and the regular session started the next day. The Conference came to be known as the Indian National Congress.

This is how the great national institution was ushered into existence as a result of 'the joint efforts of Indian and British democrats, who were primarily moved, not by narrow nationalist motives, but by a genuine devotion to Truth and Justice, in the vindication of which they both sought the true glory of their respective countries and the happy crowning of a century's work in mutually advantageous collaboration.'* Through its chequered career the Indian National Congress has continued to express the national sentiments, put forth the national demands and forge a sanction behind them. It has served the country with a single-minded devotion and courage of which every one connected with it may reasonably be proud, and which has endeared it to every Indian heart.

Hume's Role in the establishment of the National Congress.— From the preceding account of the birth of the Indian National Congress in 1885 and of the various factors which contributed to it, it would be obvious that it did not come into being all of a sudden as an avalanche or an earthquake does, but was the natural issue of the awakening that came over India as a result of the religious reform movements and the impact of western education. It can be regarded as the fulfilment of the forces set into motion by the British rule itself. It was brought into existence by the joint efforts of Indian and British democrats. That Indian politicians should have been anxious to establish a national institution for the promotion of national unity and the advancement of political consciousness among the people is easy enough to understand. That a retired British civilian should have keenly interested himself in the matter is however not so natural. There has been some controversy about the motives which inspired Mr. Hume to write his open letter to the

* Zacharias : *Renascent India*, page 114.

graduates of the Calcutta University, establish a union, and enlist the sympathy and support of the Government officials and public men in India and England for the Indian National Congress, both before and after its establishment. Shri Womesh Chandra Bannerjea, who presided over the first session of the Congress in 1885 at Bombay, is reported to have remarked that the original intention of Mr. Hume was 'to bring together leading Indian politicians once a year to discuss questions of social interest only. In other words, the Congress was intended to be just a social conference.'* But the Congress did not remain a social conference ; it became a political body from its very inception. How did this change come about ? Some persons hold the view that Mr. Hume changed his ideas and turned the Congress into a political body in order to save the British Empire in India from a violent overthrow. He wanted to divert Indian political agitation into constitutional channels, and in this task Indian leaders helped him as they also desired to conduct agitation on constitutional lines. Lala Lajpat Rai was one of the Congress leaders who subscribed to this theory. He wrote in *Young India* that the Congress was started 'more with the object of saving the British Empire from danger than with that of winning political liberty for India.' This view is only partially correct. It is no doubt true that the Congress was not started with the object of winning political freedom ; it had a much humbler objective,— that of securing piecemeal reforms like the expansion of the legislative councils and the inclusion of representative Indians in them. The idea of national freedom was rather premature at that time. It is also true that Congress did as a matter of fact confine itself strictly to constitutional activities and acted as a safety valve for revolutionary discontent. It may also be admitted that neither Mr. Hume nor any Indian leader of those days ever thought of snapping the connection with Great Britain ; they pleaded for reforms with the object of making connection with Great Britain durable and popular. But there did not seem to be any imminent danger of violent and revolutionary activities at that time ; whatever tendencies in that direction existed in the country during the regime of Lord Lytton had practically died out as a result of the tactful and sympathetic handling of the situation by Lord Ripon. Moreover, this 'Save the Empire theory' does not adequately explain the fact that while the

* Dr. Nand Lal Chatterjee : *Modern Review*, October 1950, page .72.

Government of India and the Provincial Governments were very sympathetic towards the Indian National Congress for the first two or three years and permitted their officials to attend its sessions and even participate in its deliberations, there was a sudden change in this attitude after about three years. The hypothesis advanced by Dr. Nand Lal Chatterjee in his article 'Was the Congress a child of Russo-phobia' in the issue of *Modern Review* for October 1950, seems to be more satisfactory. He says that in view of the fact that Mr. Hume propounded the idea of establishing the Indian National Congress at a time when an invasion of India by Russia was apprehended, it can be maintained that his motive was to direct Indian agitation into right lines and prevent Russians from fomenting intrigues in this country. In short, Congress was meant to be a counter-poise to Russian intrigue. When the danger of Russian invasion was over, the attitude of the Government of India also underwent a radical change.

But whatever might have been the hidden motive and intention of Mr. Hume, the Indian National Congress owes a great deal to his efforts and organising capacity. He became its first General Secretary and continued to serve and guide it till his death in 1912. It soon became the centre and focus of national awakening and attracted all patriotic persons to itself. Its growth became synonymous with the growth of national movement, and its success or failure is the success or failure of the movement. We shall therefore deal mainly with the rise and growth of the Indian National Congress in our attempt to understand the birth and growth of Indian Nationalism. In this chapter we shall study its history from its inception in 1885 till the end of the World War I.

The Character and Objects of the Congress.—A few words about the character of the Indian National Congress—which has been deliberately misunderstood and misrepresented in certain quarters—and about its objective would form the best introduction to a study of its rise and growth. As its very name indicates, it is a *national* organisation as distinguished from sectional, sectarian, and communal bodies. It is *national*, because it claims to represent all interests and all communities, and to speak in the name and on behalft of the Indian nation as a whole ; it represents no particular community, no particular class, and no particular interest. Several factors have contributed to impress this national character on it.

No single community and no single province can claim it as its exclusive possession. Since its inception in 1885 members of different communities, and persons hailing from all parts of the country have helped it to become what it is to-day. Hindus and Muslims, Parsis and Sikhs, Christians and even Europeans and Anglo-Indians : all have contributed to its growth. Its membership is open to all men and women who love India and are prepared to work and suffer for her sake, irrespective of distinctions of caste and creed, race and colour. It was first conceived in the brain of an Englishman, A. O. Hume, who is affectionately known as its Father. It was nursed during its infancy by two noble-minded Parsis, Sir Pherozeshah Mehta and Dadabhai Naoroji. From its commencement it had the good wishes of Muslims like Budruddin Tyebji and 'reformed' Bengalees like Womesh Chandra Bannerjea. The persons who conceived it and helped to bring it into existence not only belonged to different communities and came from different provinces, they also had an all-India outlook. This all-India outlook the Congress has never for a moment relinquished or forgotten. It has looked at and examined the various problems which have engaged its attention during more than half a century of its existence from this all-India point of view. In the solutions of these problems which it has offered from time to time, it has been guided wholly by considerations of the good of India as an indivisible whole. It has not allowed its judgment to be vitiated by communal, sectarian, or provincial considerations. The fact that its annual sessions have rotated from place to place, and the further fact that whatever the venue of the session, the delegates have mustered strong from every part of the country, have enabled it to retain its all-India or national character and outlook. It commenced as an organization of the middle classes ; but after sometime began to attract delegates from the rural areas and labouring classes as well. The decision to hold the annual sessions in villages removed from cities, first given effect to in 1937, has helped it to become the representative of the dumb, semi-starved millions scattered over the length and breadth of the land in its seven lakh villages. Those who accused it of being an organization of the Hindus or of the capitalists, of the landlords or of the peasants, as well as those who considered it to be merely one other party in the country on a level with the Muslim League or the Depressed Class Association, did not know what they

affirmed ; their fulminations had no basis in reality. The fact that certain individuals and the associations controlled by them did not admit the claim of the Congress to represent and speak for the whole nation does not detract from the justice of the Congress claim. By right of service it could always legitimately claim to speak in the name of the entire Indian nation, no matter what its actual membership might have been at any time.

While its *national* character has suffered no alteration during its chequered career of more than half a century, the objective of the Congress has undoubtedly undergone many significant changes. Its methods have changed with the changes in its goal. In the beginning its objective was rather modest. It was nothing more ambitious than the organization of public opinion in the country on questions of national importance and the removal of grievances of Indians in a constitutional manner. Shri Womesh Chandra Bannerjea, who presided over the first session of the Congress in 1885, laid down the following as the objects of the Congress in his presidential address :

"1. The promotion of personal intimacy and friendship amongst all the more earnest workers in our country's cause in the various parts of the Empire.

2. The eradication by direct friendly personal intercourse of all possible race, creed or provincial prejudice amongst all lovers of the country, and the fuller development and consolidation of those sentiments of national unity that took their origin in our beloved Lord Ripon's ever memorable reign.

3. The authoritative record of the matured opinions of the educated classes in India on some of the more important and pressing of the social questions of the day.

4. The determination of the methods by which during the next twelve months it is desirable for native politicians to labour in public interests."

An examination of the resolutions passed at the annual sessions of the Congress during the first few years of its life shows that it demanded *piece-meal* reforms in the administration of the country in an almost prayerful language. Council reform was one of its main points. In 1890 it sent a deputation to England to represent, in terms of one of its resolutions, 'the views of the Congress and to press upon the attention of the British public the political reforms

which the Congress advocates.' The political reforms referred to in this resolution concerned the expansion and reconstruction of the Legislative Councils on a democratic basis. The Congress advocated that the Councils should contain a fifty per cent. elected strength, and that the representatives of the people should be given larger powers. The fact that it accepted the principle of indirect election to the Local Councils and the Supreme Council, and the further fact that it conceded to the Government the right of overruling the decisions of these expanded Councils show that the Congress demands were characterised by diffidence. It is not surprising that it should be so. The Congress was in its infancy and had not yet developed self-consciousness and the power of self-assertion. It was not till the rise and dominance of the left wing that it developed this consciousness and this power. Then it gave up the attitude of prayerfulness and importunity and the method of political mendicancy, and began to demand self-government as a matter of right. It required a Lokamanya Tilak to declare in a forceful manner : "Swaraj is my birthright, and I shall have it." The word *Swaraj* was not uttered from the Congress platform till 1906 when the veteran leader Dadabhai Naoroji, the Grand Old Man of India, declared in his Presidential address that Self-government or "Swaraj" like that of the United Kingdom or the Colonies was the object of the Congress. The declaration that Swaraj was its goal did not lead Congress to make any modification in its method of work. It continued to pin its faith in the sense of justice and fairplay of the British nation, and hoped that, if the British Government were convinced of the justice and soundness of the demands of Indians, they would rise equal to the occasion and establish truly representative institutions in the country and give the people the right to govern it in the interest of India. For long after the famous utterance of Dadabhai, this hope and fond belief continued to form the basis of Congress resolutions and speeches. It was not till the advent of Mahatma Gandhi and his disillusionment as a result of the Punjab tragedy that the Congress changed its method. It repudiated the method of representation and learned to depend on its own strength to enforce its demands. It created a country-wide organization, carried on political propaganda among the masses and led civil disobedience campaigns. At a later date it declared Complete Independence or Purna Swaraj as its goal, and

used the method of Non-violent Civil Disobedience for its achievement. There have thus been far-reaching and fundamental changes in the objectives and methods of the Congress.

Different Phases of Congress History.—On the basis of the character of the methods employed by the Congress to achieve its objective, its history falls naturally into two divisions. The first period extends from its inception in 1885 to 1919, and the second from 1920 to 1947. During the first period it clung to the method of political agitation or the method of representation as it was otherwise called. During the second, it adopted the method of direct action, but without violence, under the leadership of Mahatma Gandhi. This method of direct action differed in a radical way from the direct action adopted by the nationalists in Ireland and other countries, in so far as it completely eschewed violence, and restricted itself to non-violent non-cooperation or civil disobedience. The development and perfection of this method of non-violence or Satyagrah as it is generally called may be regarded as the unique contribution of Indian Nationalism to political thought and action.

From the point of view of the changes made in its objective or goal from time to time, the history of the National Congress would be divided into four distinct periods. The first period covers the years between 1885 and 1905 ; the second, between 1906 and 1919 ; the third, between 1920 and 1929, and the fourth, between 1930 and 1947. The era following the achievement of its goal in 1947 may be called the period of fulfilment, the two periods preceding it the period of struggle, and the first one the era of preparation. The years from 1885 to 1905 constitute the era of Reforms, because during this period the aim of the Congress was to secure piecemeal reforms for the country ; *e. g.*, the enlargement of the Legislative Councils and the increase of representative Indians in them, the separation of the executive from the judiciary. The years between 1906 and 1919 constitute what may be described as the era of self-government. During this period the Congress concentrated its attention on the demand for Self-government or Swaraj within the British Empire. As has been pointed out above, during these two periods the Congress believed in and employed the method of constitutional agitation. The third period begins with the adoption of non-violent non-cooperation as the way to redress the Punjab and Khilafat wrongs. The aim of the Congress was changed to

Swaraj within the Empire if possible, and without, if necessary. It meant a departure from the past when the goal was self-government as an integral part of the British Empire. In 1930 the Congress goal was changed to Complete Independence. The period since 1920 has been called the Gandhian era, because of the dominant role played by Mahatma Gandhi in determining and moulding the policy of the Congress.

As will be evident from the foregoing, political questions loomed large in the deliberations and discussions of the Congress from the start. It was not till William Digby and Dadabhai Naoroji revealed the impoverishment of the country as a consequence of the economic policies of the British Government that it became interested in economic questions which began to take their rightful place in the thoughts of the leading congressmen. It was Mahatma Gandhi, however, who made the poverty of the masses a live issue before the nation and who took concrete steps to ameliorate their condition

First Phase, 1885–1905.—A few features of the Congress during its first phase which might be said to have terminated in 1905 may be mentioned here. It contained almost all the noted Indians of those years with the exception of Sir Syed Ahmed who held aloof from the national movement. Men like Dadabhai Naoroji, Sir Pherozeshah Mehta, Sir Dinshaw Wacha, Justice Ranade, Telang, Tyebjee, Tilak, Gokhale, Chandavarkar, Surendranath Bannerjea, Anand Mohan Bose, Motilal Ghosh, Rash Behari Ghosh, Womesh Chandra Bannerjea, Bepin Chandra Pal, Lajpat Rai, Pt. Malaviya, Ganga Prasad Verma, Subramania Iyer, Sir Sankaran Nair, Anand Charlu and Vijayraghavachariar and liberal-minded Europeans like Hume, Wedderburn, Yule and Norton, were closely associated with it. It was a truly *national body.* In this respect it stands contrasted with the present day Congress, from the membership of which we have to exclude liberal or moderate leaders, Muslim Leaguers, Hindu Sabhaites and members of several other communal organisations. This fact, however, does not militate against its claim to represent the Indian Nation and to speak on its behalf.

Critics like Coupland, however, assert that its 'real weakness lay in the fact that the nationalist movement was not supported by all educated Indians ; it was not the expression of a pan-Indian patriotism.'* In support of this contention he says that the Con-

* India : *A Restatement,* page 90.

gress never represented the Indian States, and that the representation of the minorities in it has been partial ; in short, according to him, it has been overwhelmingly Hindu in its composition. It is no doubt true that it never contained any representatives of Indian States ; but this is irrelevant. The Congress dealt primarily and fundamentally with the problems of British India and wanted to secure political reforms for British India. As a matter of policy it refrained from dealing with the problem of Indian States. The second point is either a misrepresentation or irrelevant. If it is contended that minorities were not represented in it, it is wrong ; its delegates have always included Muslims, Christians, Sikhs, Parsis, etc. Its Presidents have been drawn from all communities ; and the Working Committee has always had Muslims and Sikhs in it. But if it is asserted that the Muslims, etc., who were members of this body constituted a small minority, it may be true but is irrelevant. It is not possible for any voluntary association to secure proportional representation of all the minorities and interests in the society ; it is a demand which can never be realised. No body denies that for certain reasons a considerable section of Muslim opinion kept aloof from it ; this however does not detract from its national character. It should always be remembered that what confers national character upon an association is the spirit in which it looks at the problems and tries to solve them, and not the numerical strength of its members, etc. What makes an opinion public is not the number of persons subscribing to it, but their motive. India being a predominantly Hindu country, it is but natural that the Indian National Congress should have been largely Hindu in its composition, but this does not mean that its outlook was not national.

Secondly, during this period the Congress was an organisation of the *middle classes.* The delegates to its annual sessions generally came from the cities. The landowning group and the masses were mostly unconcerned with its activities. With the exception of Lokamanya Tilak, Lala Lajpat Rai and a few others, the leaders of the Congress were not in contact with the masses. The result was that it voiced the demands of the *educated middle class.* In his presidential address at the Poona Congress of 1895 Mr. Surendranath Bannerjea declared that he was not aware if any responsible congressman had ever asked for representative institutions for the masses,

and that they would be satisfied if they obtained 'representative institutions of a modified character for the educated community, who by reason of their culture and enlightenment, their assimilation of English ideas, and their familiarity with English methods of government might be presumed to be qualified for such a boon !' It was not till the advent of Mahatma Gandhi and the launching of the Non-Cooperation movement that Congress became a mass movement, and began to demand Puran Swaraj for the benefit of the *masses*.

Lastly, during this period the Congress was wedded to strictly constitutional agitation. It submitted its demands to the British Government in prayerful language. Its annual meetings began usually with an affirmation of loyalty to Great Britain and an insistence on constitutional procedure, and closed with cheers for the Queen and the Viceroy. The resolutions passed by it were characterised by prudence and moderation'; they generally pertained to the necessity of expanding the legislative councils, the admission of elected Indians to them, the separation of the judiciary from the executive, employment of Indians in the cvil service, simultaneous examinations in England and India for recruitment to the Civil Service, etc. It was not till Mahatma Gandhi assumed leadership of the Congress and launched the movement of Non-Violent Non-Cooperation that the Congress gave up the method of constitutional agitation which its critics decried as the method of political mendicancy, and took to the method of direct action.

It is also interesting to note that although Lokamanya Tilak used the word Swaraj for the first time in the nineties of the last century, it did not become popular for long. It was officially used from the Congress platform for the first time by Dadabhai Naoroji in the course of his Presidential address when he held up Swaraj or self-government like that of the United Kingdom or the colonies as the goal of the Congress. It is, however, not till we come to the Gandhian period in the history of the Congress that the word caught the imagination of the people and began to be commonly used as describing the goal of the Congress.

It is also worth remembering that the Indian National Congress started upon its career with the good will and sympathy of the Government of India. Its first session at Bombay was attended by a fairly large number of government officials who took part in its

deliberations. At subsequent sessions they attended as visitors. The Governor General invited the delegates to the second session held at Calcutta to a garden party at Government House as distinguished visitors. The Governor of Madras did likewise the following year at Madras. On their part, several Presidents waxed eloquent on the blessings of the British rule, avowed their faith in the British sense of justice, and proclaimed that they aimed at making the bonds between England and India durable and stronger. But the attitude of the British Government underwent a radical change. It adopted first the attitude of distant neutrality, and next, of positive hostility. Government officials began to describe Congressmen as 'amateurish politicians whose presumption was equalled only by their ignorance. We were disappointed candidates for office or unsuccessful lawyers. We had no knowledge of the masses and had no right to speak on their behalf. We represented nobody but our little selves.'*

Before closing this account of the first phase of the career of the Congress it seems necessary to refer briefly to one special activity of it which throws a flood of light on its mentality and method of work. Mention has already been made of a deputation which was sent to England in 1890 to educate British public opinion and enlist its support for the Congress programme of Council reform. Simultaneously with it, a committee of five Englishmen was appointed to carry on work in England. It consisted of George Yule, A. O. Hume, J. Adam, Eardley Norton and J. E. Howard. A sum of Rs. 45,000/- was voted to cover the expenses. This committee issued pamphlets giving general information, organized meetings in large towns, supplied speakers to numerous other social and political gatherings where Indian questions were discussed, and conducted a monthly jornal called *'Indian'* which made facts concerning this country known to the authorities and the British public. It was converted into a weekly paper, and continued to do useful work till 1921 when it was stopped by the Congress. This clearly demonstrates that the leaders of the Congress in its earlier phase had an abiding faith in British integrity and sense of fairplay and justice. They believed that they had only to state their cause fully and convince the Britishers of its inherent justice, and the doors of Jerico would open to them. Hence their trust in the method of representation and petitioning, in the method of'political mendicancy' as its critics characterised it.

* Sastri, quoted by Zacharias : *op, ct,,* page 116.

Birth of Extremism.—It should be evident from the preceding account of the character of the Indian National Congress during the first phase of its activities that a great majority of its leaders believed in the constitutional or lawful method for securing reforms and the redress of grievances. They were the products of western education and were imbued with the spirit of British liberalism. They had an abiding faith in British sense of justice and fairplay, and in the efficacy of moral persuasion as the best means of gaining their objectives. They believed that if only they could convince the British public and Parliament of the justice and resonableness of their demand for further reforms, they would be conceded. So what was necessary was a clear and cogent statement of facts together with sound and irrefutable arguments in support of their demands. They might fail once or twice ; but if they persisted in their efforts, they were bound to succeed in the long run. This is the essence of the constitutional method : it postulates patience and belief in progress by means of lawful agitation. 'Perhaps, this was the only method available to the Congress during the early years ; it had not developed into a mass movement and lacked sanctions behind its demands.

But forces were at work and events were happening in India and outside which led young men with a different outlook and mentality to question the soundness and validity of this method of constitutional agitation, the method of representation and prayer and moral persuasion. At the beginning of the present century a new party arose which decried the methods and ideology of the older leaders and recommended the adoption of more self-reliant and independent methods. Bal Gangadhar Tilak, Lajpat Rai and Bipin Chandra Pal were the three great leaders of this party. It was called the *extremist* party in contrast to the older one which came to be known as the *moderate* group. It exercised great influence on subsequent developments in Congress ideology and methods of work. A study of the events which led to its formation is therefore essential.

(*i*) The reforms introduced by the Indian Councils Act of 1892 had proved to be very inadequate, and the people were greatly dissatisfied with their achievements. Although veterans like Surendra Nath Bannerjea in Bengal, and Ferozeshah Mehta in Bombay worked with great vigilance and subjected all the affairs which came

within the purview of the Legislative Councils to great criticism, the actual achievements were insignificant.

From 1892 onwards, Congress used to pass resolutions pleading for the reform and expansion of the Legislative Councils, the separation of the judiciary from the executive, simultaneous examinations for the Civil Service in India and England, the reduction of military expenditure, a larger share of Indians in appointment to higher government services, the admission of Indians to the Executive Council of the Governor General and to the India Council, the lowering of the burden of taxation on the people of India, etc. ; but they had little or no influence on the authorities in England and India. Government paid no heed to what the Congress asked for. On the other side, Indian representatives in the Legislative Councils could not prevent Government from doing what it had set its mind on. In defiance of all canons of justice and principles of Economics and of Indian public opinion the Government of India imposed an excise duty on cotton goods produced in India to counterbalance the duty imposed on cotton piecegoods imported from Lancashire. Nor could the Government be stopped from adopting a policy of stern repression. The absence of response from the Government made the younger section of the Congress impatient ; they began to question the utility of the method of representation, or the method of mendicancy as they preferred to call it. They felt that 'such rate of progress seemed to contemplate a gradual evolution of centuries, not years', and began to wonder 'whether a more revolutionary method would not yield quicker and greater results.'* Events occuring outside India to which reference will be made later on added force to this spirit of revolt. They lost faith in British justice and integrity, and some of them developed revolutionary tendencies.

(*ii*) A great famine, the most intense and severe famine ever known till then under British rule, occurred in 1896—97 affecting about 70,000 square miles in different regions, and a total population of about twenty millions. The relief machinery set up by the Government was inadequate, slow moving and badly organised. There was great hardship and suffering in the country. To add to the misery of the people there broke out in a virulent form an

* Zacharias : *op. ct.* page 128.

epidemic of bubonic plague which caused great havoc in the western parts of the Bombay Presidency. The measures adopted by the Government of Bombay to combat this epidemic caused great resentment and bitterness among the people. One of the gravest defects of the famine-relief and plague-prevention measures taken by the Government was that the entire work was left in the hands of government officials most of whom belonged to a different race and could not work so selflessly and zealously as non-official Indian agencies could do. The nation stood watching helplessly, while millions were starving and dying. It brought their own helplessness home to them.

(*iii*) So great was the resentment of the people against the unpopular Plague Commissioner of Poona, Mr. Rand, for the provocative measures he had taken, and so strong was the criticism in the press, specially in the *Kesari* edited by Lokamanya Tilak, that riots broke out and one sensitive young man shot dead Mr. Rand and his associate Lt. Ayerst. This was followed by great repression all over Maharashtra. Tilak was tried for having instigated the murder of Rand and Ayerst by his speeches and writings, and sentenced to eighteen months imprisonment. He was not given leave to appeal to the Privy Council. This heavy sentence and the refusal of leave to appeal raised a storm of indignation throughout the length and breadth of the country. The comment made by the *Hindu* of Madras on this episode is highly significant and worth quoting. It wrote : 'Nothing has happened during these forty years to remind the people more of their object helplessness and to give more poignancy to the consciousness of their political subjection than the recent doings of the Bombay Government.'*

(*iv*) More important than these causes was the highly reactionary policy of the government of Lord Curzon whose seven years' regime was full of 'missions, omissions and commissions.' This high priest of British imperialism trod underfoot the ambitions and aspirations of Renascent India. His frontier policy and the mission to Lhasa were bitterly criticised. The Official Secrets Act of 1904, the Calcutta Corporation Act, and the Indian Universities Act which were designed to officialise these bodies under the plea of reforming them went clearly against the spirit of the times and evoked universal criticism. The Durbar held at Delhi in 1902 immediately after the

* Quoted by Andrews : *The Rise and Growth of the Congress*, page 193.

severe famine of 1899—1901, and in the face of opposition from Indians was resented as 'a pompous pageant to a starving population'. What was worse was the fact that he expressed in unequivocal terms his conviction about the unfitness of Indians for holding high offices in the government, and gratuitously charged the educated classes among them with untruthfulness. Here is what he said in his Calcutta University Convocation speech : 'Undoubtedly truth took a high place in the codes of the West before it had been similarly honoured in the East, where craftiness and diplomatic wile have always been held in high repute.' This false and unjust charge against Indian character evoked strong condemnation, and retorts were published in the Indian press.

(*v*) That was not all ; the worst and the most foolish act of his viceroyalty was still to come in the shape of the Partition of Bengal. Not only did he force this obnoxious measure on the country in the teeth of strong and unanimous opposition of the people of Bengal, the time chosen for it was most ominous—'1904, the year of the battle of Tsushima, when a little Asiatic power, Japan, had vanquished the giant Russia, of which England herself had for a generation shown such undoubted nervousness. Japan's smashing victory could not fail to thrill India from Cape Comorin to the Himalayas, nor to be taken by her as a turning point in the political relationship between the East and the West.'*

Two things combined to inflame public opinion in Bengal, and in India as a whole, against the Partition. It was generally believed by the educated section that the partition of the province was designed with the sinister motive of destroying the growing solidarity of Bengal nationalism, and driving a wedge between the Hindus and the Muslims of the province and creating disunity between them. 'The whole purpose and effect of the measure was manifestly Machiavellian.'† Lord Curzon toured East Bengal and addressed huge gatherings of Muslims and explained to them that his object in partitioning the province was not merely to relieve Bengal administration, but also to create a Mohammedan province where Islam could be predominant and its followers in ascendancy. The opposition of the people of Bengal to this move was made known to him personally during the tour. Public meetings were

* Zacharias : *op. cit.*, page 139.

† Zacharias : *ibid*, page 141.

held all over Bengal in which this sinister move of the Government was condemned. Memorials to the same effect were sent to him. A petition signed by 60,000 people was submitted to the Secretary of State imploring him to withhold sanction to this mischievous proposal. But nothing availed. The Viceroy had made up his mind, and the officials under him had given their approval to it. Lord Curzon was not the person to be deterred by the opposition on the part of the people. Nay, he went one step further and added insult to injury by characterising the opposition to his project as 'manufactured,' as engineered by a few agitators. The supreme contempt he thus showed for public opinion exasperated the people, and they resolved not to take this insult and humiliation lying down. They accepted the challenge thrown to them by Lord Curzon and determined not to rest until this most mischievous measure was annulled.

The contemptuous disregard Lord Curzon had shown for public opinion made the people realise that mere holding of meetings and passing of resolutions of protest and condemnation would not suffice ; something more tangible and more vigorous which the imperialist could understand and appreciate was needed. Somebody hit upon the idea of boycotting British goods as a forceful retaliatory measure. It was in harmony with the spirit of Swadeshi which was already making much headway, and was therefore adopted. The citizens were asked to take a pledge to abstain from purchasing British manufactured commodities so long as the partition was not annulled. It was also meant to be a protest against 'the indifference of the British public in regard to Indian affairs and the consequent disregard of Indian public opinion by the present Government.'* The boycott movement was a tremendous success ; old and young, men and women, all were engulfed by it. Students refused to answer the question paper in an examination until *swadeshi* paper was supplied to them on which to write their answers ; even young girls returned the presents sent to them by their relations in case they happened to be foreign. The success of the movement exasperated the bureaucracy which then resorted to repressive measures to break it. But these measures only served to fan the public excitement all the more, and unrest grew apace. One result of the policy of repression

* Part of the resolution that was to be passed at meetings to be held on August 7, 1905,

launched by the Government was the appearance of what has been called the terrorist movement. It came rapidly to a head ; the ruthlessness of the police was answered by the violence of the secret conspirators. In this way a new phenomenon appeared on the political horizon of India.

(*vi*) As its 1904 session the Congress passed resolutions protesting against the effort to officialise education and the Calcutta Corporation. It also resolved to send a deputation headed by that year's President, Sir Henry Cotton, to wait upon the Viceroy with the resolutions. Lord Curzon, however, refused to receive the deputation. The Congress felt insulted and sent Mr. Gokhale and Lala Lajpat Rai to England. On returning from there Lala Lajpat Rai told his countrymen that 'the British democracy was too busy with its own affairs to do anything for them, that the British press was not willing to champion Indian aspirations, that it was hard to get a hearing in England, and that the influence and the credit of Anglo-Indians was too strong to be met successfully by the necessarily inadequate agitation which the Congress could set up in England.'* In brief Lala Lajpat Rai asked his countrymen to stand on their own feet and to depend upon their own efforts to achieve political reforms.

(*vii*) Events occuring outside India also exercised a profound influence on the mind and outlook of the rising generation and materially helped the rise of the extremism. The discriminating and humiliating treatment that was being meted out to Indians in British colonies, specially in South Africa, created much resentment and bad blood in India ; it intensified the anti-British feeling which was rapidly developing in the younger section of the public. The defeat of the Italian army by the Abyssinian forces in 1896 heartened and gladdened the Indians. The nationalist movements in Egypt, Persia, and elsewhere also stimulated the Indians. But the event which created the greatest impression on and thrilled the whole of Asia and became a most potent stimulus to Indian nationalism was the crushing defeat inflicted by Japan upon Russia in 1904. The following extract from Sir Henry Cotton's *New India* vividly describes the effect of the Japanese victory. He writes : 'Above all, there is Japan. What an inspiration has been afforded by the character of these Eastern islanders ? What an example have they not set to the East

* *Young India :* quoted by G. N. Singh. *op. ct.*, pages 294-5.

of the power of patriotic spirit ? The example is not lost on India.' (page 14.) Young India began to ask : May we not also be able to challenge Great Britain sometime in the future ?

The Extremist Party.—The events described above gave a new turn to Indian politics ; they were responsible for the emergence of what may be described as aggressive militant nationalism in our country. It found expression in two different forms : (*i*) the formation of the extremist bloc within the Congrees, and (*ii*) the growth of terrorism or revolutionary movement in the country at large. In this section we shall deal with the extremist party ; and in the next, with the emergence of terrorism.

As has been pointed out above the extremist bloc was organised under the able leadership of Bal Gangadhar Tilak, Lajpat Rai, and Bepin Chandra Pal. It is very necessary to understand the points of difference between the old and the new school. The basis of the difference was temperamental and not ideological ; it related more to the methods by which the goal of the Congress was to be achieved and less to the goal itself which was declared to be Swaraj by Dadabhai Naoroji at Calcutta. Speaking at a meeting in 1909, Gopal Krishna Gokhale, one of the best, noblest and wisest sons of India and a pillar of strength to the old party, explained the main difference between the political doctrine of the moderates and that of the new group in the following words : 'Our old public life was based on frank and loyal acceptance of British rule due to a recognition of the fact that it alone could secure to the country the peace and order which were necessary for slowly evolving a nation out of the heterogeneous elements of which India was composed and for ensuring to it a steady advance in different directions. The new teaching condemns all faith in the British Government as childish and all hope of real progress under it as rash.' Because of its faith in British sense of justice and fairplay, the old leadership stuck to the method of lawful and constitutional agitation. It counselled patience, and believed in gradualness of reforms. It was not tired of eulogising the benefits conferred upon India by British rule, and was in favour of making the bonds between India and England durable and deeper. 'We of the moderate party believe that the connection of England with Iadia is a divine dispensation ordained for the loftiest and highest of ends '* The new leadership had lost faith in British sense of justice

* Surendra Nath Bannerjea : *A Nation in the Making*, page 336.

and fairplay : it asserted that there was no room for philanthropy in politics. Therefore it rejected as useless and unavailing the method of petitioning and representation : instead of relying on British generosity, it recommended a more self-reliant and independent method. It laid stress on boycott of British goods, encouragement of Swadeshi, and establishment of national institutions. Lala Lajpat Rai gave expression to the temper and spirit of the new leadership in the following words : 'Indians should no longer be content to be beggars, whining for favours ; for if they really cared for their country, they would have to strike a blow for themselves.' Lokamanya Tilak's slogan 'Swaraj is my birth right and I shall have it' also breathes the spirit of self-reliant action. Whereas the old leadership would not recommend any course of action which would bring them into clash with the Government, the new one advocated passive resistance involving much suffering and the risk of being sent to jail. It appealed to persons who felt deeply the humiliation of foreign rule and reacted violently to the racial arrogance which was exhibited by some members of the ruling race in India. It is interesting to note that while leaders like Dadabhai, Gokhale, Ferozshah Mehta, and Anand Mohan Bose were never made to suffer for their patriotism by the British Government, extremist leaders like Tilak and Lajpat Rai were clapped behind prison bars several times. Thus the differences between the old and the new were deep-seated and fundamental ; the extremists looked with undisguised contempt upon the moderation of the Old Guard. The matter came to a head at Surat where the split occurred. As a result of the new constitution adopted by the Congress in 1908 the Extremists were practically excluded from its membership, and the Moderates enjoyed undisputed sway till 1916 when the Extremists rejoined it. The Government of India also came to the help of the Moderates by arresting most of the extremist leaders and either deporting them without trial or sentencing them to various terms of imprisonment.

The Terroristic Movement.—In as smuch as the terrorist or revolutionary movement exercised little or no influence on the constitutional development, and its effect on the growth of nationalism was neither deep nor lasting, our reference to it will be brief. In view of what has been said above about the factors which gave rise to the extremist movement in the country, it is not necessary to add

any thing more about the cause of the emergence of the revolutionary movement. Both of them were the product of the same set of circumstances. Feeling disappointed at the meagerness of the British response to the national demand and stimulated by the series of events which happened in and outside India some young men, more sensitive and more courageous and more impassioned than others, took to the cult of the bomb. They argued that an ounce of lead can work more wonders than a ton of argument and moral persuasion. Looking to the period during which the movement was active and vigorous, namely, from 1905 to 1911, and to the fact that Bengal was the chief centre of its activities, it would not be wrong to ascribe its appearance to a large extent to the Partition of Bengal and the policy of ruthless suppression adopted by the Governments of Bengal and the newly carved province of East Bengal in dealing with the anti-partition agitation. Barindra Kumar Ghosh, the brother of Aurobindo Ghosh, and Bhupendara Nath Dutta, the brother of Swami Vivekanand, were among the high priests of this new cult. They openly preached the cult of revolution through the *Yugantara*. They organised revolutionary societies modelled upon the Russian and Italian secret societies for planning and executing acts of terrorism. Their activities commenced in 1907 with an attempt to blow up the train in which the Lieutenant Governor of Bengal was travelling. Shortly after, in December the District Magistrate of Dacca was short in the back but without fatal results. In 1908 an attempt was made on the life of Mr. Kingsford, who as the chief Presidency Magistrate of Culcutta had sent many persons accused of political offences to jail ; it, however, resulted in the death of two innocent ladies as a result of mistaken identity. The police became active in its hunt after the revolutionaries, and several conspiracies were unearthed in Bengal leading to the arrest, convinction for long terms and the execution of a large number of revolutionaries. There was some activity of this nature in Maharashtra also where Shyamji Krishna Verma, the Chapekar brothers and the Savarkar brothers were the main organisers. Revolutionary societies where at work in England also where Vinayak Savarkar and Shyamji Krishna Verma were responsible for vigorous propaganda. One Madan Lal Dhingra assasinated Col. Sir William Wyllie at the India Office by way of vengeance for the heavy sentences of transportation and death passed by British courts on patriotic Indian youths.

The revolutionary movement was very active in Bengal and the Punjab during 1913—16 also. About sixteen outrages were committed in Bengal during 1913, and 19 in 1914. The number increased still further in 1916. An unfortunate feature of these outrages was that decoities, sometimes accompanied with murder, were committed and holds-up carried out for the purpose of financing the movement. Some of the Punjab revolutionaries were responsible for an attempt on the life of Lord Hardinge, the Governor General. The Delhi Conspiracy case was started which culminated in death sentence being passed on Amir Chand, Avadh Behari, Balmukund and Basant Kumar Biswas. The revolutionary movement in the Punjab was reinforced by the return of Sikh emigrants from Canada. A regular Ghadar party was organised under the leadership of Har Dyal. It is not necessary to add details.

The revolutionary movement failed because it appealed to a very small circle of young men and laked a central organisation which could direct and control it on an all-India basis. What is more important, the upper middle class leadership was unsympathetic to it ; leaders like Surendra Nath Bannerjea and Sir Ashutosh Mukerjea asked Government to take stern measures to kill it. It died when Mahatma Gandhi appeared on the scene and gave to the country the sublime message of Turth and Non-Violence.

Muslim Communalism.—Far more vital in its effects on the political life of the country than the rise of the revolutionary school and even the growth of extremism was the introduction of the principle of separate communal representation during the period under review. Its effects persist and colour social and political life till today. The topic of Communalism in Indian Politics will be discussed in a separate chapter in great detail ; here, only a brief reference to it would be made.

It would be recalled that the Indian National Congress was ushered into existence with the secret sympathy and support of the Government of British India ; it was designed to be a counter poise to threatened Russian intrigues in the country. But the growing power of the Congress and the character of its demands coupled with the disappearance of the danger of Russian invasion wrought a change in the policy and attitude of the Government ; it began to think of a counterpoise to the Congress with a view to keeping the Muslim and other sections of the public aloof from it. The

services of Sir Syed Ahmed Khan, who occupied a very important position in the Muslim community and had all along been a consistent admirer of British government and of western education, were utilised for the purpose. Under the influence of Mr. Beck, the British Principal of the M. A. O. College, Aligarh, founded by him, Sir Syed came to blieve that an Anglo-Muslim alliance would be more conducive to the interests of his community than an alliance with the Hindus. He therefore set up the Anglo-Muslim Defence Association with the objective of supporting measures designed to strengthen British rule in India and spreading the feelings of loyalty to the Crown among his co-religionists. He also started the Muslim Education Conference which held its sessions simultaneously with those of the Congress but at different places so that Muslims may not be able to join the latter. This was the beginning of Muslim separatism from the Congress.

When the Morley-Minto Reforms were on the anvil, the Government of India took a further step in the execution of its policy of Divide and Rule which had far-reaching repercussions on the political life of the country. It decided to introduce the vicious system of separate communal representation for the Muslims. Mr. John Morley was opposed to it, but had to yield to the Government of India otherwise his Indian Councils Act of 1909 would not have been passed by Parliament. Succeeding Reforms saw the extension of this principle to the Sikhs, Europeans and other interests and classes.

The Muslim League came into existence in 1906. The story of the Muslim demand for separate representation and of the formation and fortunes of the Muslim League will be told in a different chapter.

The Second Period.—The year 1907 may be said to be an important year in the history of the Indian National Congress ; it saw the rupture between the old leadership and the new party led by Tilak and others which had been prevented by the tact and skill of Dadabhai Naoroji at the preceding session held at Calcutta in 1906. It is not necessary to describe the undignified scenes which occurred at Surat where the annual session was to be held. It is sufficient to say that on account of very high feelings which ran between the followers of Gokhale and those of Tilak the session broke up in disorder and confusion. The Moderates who were in

a majority met in a separate convention, set up a committee which met at Allahabad a few months later, and drew up a Constitution for the Congress. The first article of this Constitution runs as follows : 'The objects of the Indian National Congress are the attainment by the people of India of a system of government similar to that enjoyed by self-governing members of the British empire and a participation by them in the rights and responsibilities of the empire on equal terms with those members. These objects are to be achieved by constitutional means by bringing about a steady reform of the existing system of administration and by promoting national unity, fostering public spirit and developing and organizing the intellectual, moral, economic, and industrial resources of the country'.

By declaring that the goal of the Congress was self-government as a member of the British Empire and by confining itself to the employment of constitutional means only; the Constitution definitely excluded from membership of the Congress the Extremists who recommended a more active and effective method of action including boycott and passive resistance and who had no love for British connection and were anti-British. Sober extremists like Lala Lajpat Rai very much regretted the rupture and did not leave the Congress. The British Government also helped the Moderates in enjoying undisturbed power in the Congress by clamping Tilak and other leaders of the extremist group behind prison bars.

The ascendancy of the Moderates continued till 1916 when Lokamanya Tilak rejoined the Congress at Lucknow. The period from 1907 to 1916 acquires some importance in the history of our constitutional development and national movement because the Government was engaged in the dual policy of reform and repression. The growth of extremism in the Congress, the appearance of terrorism in Bengal, Maharashtra and Madras, and the agrarian unrest in the Punjab had made it nervous. It wanted to rally the Moderates, the Muslims and the landlords round itself ; and to this end Lord Minto announced in April 1907 that he had sent to the Secretary of State a despatch proposing political reforms on a liberal basis. On the other hand, it adopted stern measures to put down political extremism and revolutionary activities. As stated above, the Government deported Lala Lajpat Rai and Sardar Ajit Singh without trial to Mandalay in May 1907. This action stunned the people of India, for Lala Lajpat Rai was known to be an honest and a courageous

political worker and social reformer who always worked in the open and never participated in secret or underhand activities. In Bengal a regular campaign was started against the press and many editors and printers were tried and sentenced. A number of persons believed to be involved in terroristic activities were arrested and some of them executed. These trials and executions led to several new political murders. The country was thus involved in a vicious circle : government's repressive measures led to revolutionary activities and these in turn intensified the former. The story was repeated in Maharashtra, the Punjab and the Madras Presidency. It is unnecessary to go into details. Suffice it to say that the period 1906–10 was a period of unprecedented revolutionary activities on the one side and terrible repression on the other. The Government of India put on statute book two Acts. One was the Seditious Meetings Act of 1907 which gave local authorities the power to prohibit any person from addressing any public meeting and to place restrictions upon the holding of such meetings. The object was to smother political life in the country. The second was the Newspaper (Incitement to Offences) Act of 1908. It gave the District Magistrate the power to confiscate any printing press where a newspaper was being printed which in his opinion, incited the people to violence. It also empowered him to annul the declaration made by the printer or the publisher of the paper under another Act, and thus made it impossible for the paper to run. Yet another engine of repression war brought into existence. In December 1908 the Criminal Law Amendment Act was pushed through the Legislative Council. It prescribed a special form of trial for terroristic offences and also empowered the Government to declare any association unlawful. Under it the volunteer associations which were working in Bengal from 1902 were declared unlawful, and thereafter ceased to function. Under Regulation III of 1818 nine leading men of Bengal were deported without trial. In Bombay, Lokamanya Tilak was sentenced to six years imprisonment for having written some articles in his paper, the *Kesari*. The editors of three other papers were also sent to jail. The stalwarts of the Old Congress Party looked on helplessly while all political life in the country was thus being killed.

There is not much worth noting about the activities of the Indian National Congress from 1908 to 1915. It was dominated

by politicians of the moderate school and had lost intimate touch with the radical element ; the enthusiasm of the young members had waned to a great extent. It continued to pass resolutions demanding improvement in Council Regulations, the repeal of the Press Act, a larger share for Indians in appointments to the public services, abolition of the India Council, etc. It could not show any substantial results, inspite of the loyal welcome it accorded to the King on the occasion of his visit to this country in 1911.

The year 1911 was, however, rendered memorable by several incidents ; the chief of which is the annulment of the Partition of Bengal. This annulment was announced by His Majesty, the King-Emperor, at the Coronation Durbar held at Delhi on December 12, 1911. It caused great rejoicings in Congress and the country at large. The tribulations and sufferings undergone by the people of Bengal in their resolve to get 'the settled fact' of Partition unsettled after all bore fruit. The capital was shifted from Calcutta to Delhi. Unfortunately, when Lord Hardinge, the Viceroy, was making a formal state entry into the new capital in 1912, a bomb was thrown at him which luckily did not prove fatal. It must be said to the credit of the Governor General that this attempt on his life did not embitter him against India, and he continued to act as before the attempt.

The year 1911 is also memorable because of the attempt made to bring about Hindu-Muslim unity. A Hindu-Muslim Conference attended among others by men like Wedderburn, Bannerjea, Malaviya, Hassan Imam, Jinnah and Rahimatullah was held. Sir William Wedderburn, who had come all the way from England to preside over the Allahabad session held in 1910, made a serious attempt to restore unity in the Congress by healing the breach made at Surat. Attempts were being made for bringing the Muslim League nearer to the Congress with a view to closer alliance and co-operation between the two organisations. These attempts will be described in the chapter on Communalism in Indian Politics.

Reference may also be made to the heroic struggle which the Indians in South Africa were putting up under the leadership of Gandhiji. He had gone there to conduct a case on behalf of a client of his, but remained to organise a large-scale passive resistance against humiliating restrictions imposed upon Indians residing in South Africa. Shri Gopal Krishna Gokhale helped him in all the

ways he could. Another great humanitarian, C. F. Andrews, also came to the assistance of Gandhiji in his campaign in South Africa. The attitude of Lord Hardinge, the Governor General of India, was also very helpful and praiseworthy. It may also be mentioned that Mrs. Besant made her appearance in Indian politics during this period,—in 1914, to be more precise.

Morley-Minto Reforms.—The most notable event of this period was the inauguration of the Morley-Minto Reforms. The main features of the Indian Councils Act of 1909 have been described in an earlier chapter. It was designed 'to control and canalise the now fast-flowing current of Indian nationalism.'* On the one side, the Moderates were to be satisfied and their continued co-operation with the Government ensured. On the other side, the growing extremism in the country had to be checked. To secure the former, the legislative councils were considerably enlarged and their powers increased. The principle of election was also recognised. To ensure the latter, the elected members were everywhere kept in a minority ; the official members and the nominated non-officials together outnumbered the elected members. Lord Morley explicitly and definitely asserted that the Act of 1909 was not designed to introduce any element of responsibility in the government of India. Inspite of this feature, it was a great improvement upon the existing practice, a definite milestone on the road to self-government. The Congress which met at Madras in 1908 welcomed the outlines of the reforms contained in Lord Morley's despatch and passed a resolution conveying its grateful thanks to the Secretary of State for them. It expressed the hope that 'the details of the scheme will be worked out in the same liberal spirit in which its main provisions have been conceived.' But the hope was smashed by the regulations made to give effect to the provisions of the Act of 1909. The Congress passed the following resolution at its session held at Lahore in 1909. 'This Congress deems its duty to place on record its strong disapproval of the creation of separate electorates on the basis of religion and regrets that the Regulations framed under the Act have not been framed in the same liberal spirit in which Lord Morley's despatch of last year was conceived.' The chief fault of the Regulations was that they gave unjust preference to certain sections of the society at the cost of others. It seemed that their chief purpose was to include a

* Coupland : *op. ct.*, page 104.

large number of landlords and Mohammedans in the Legislative Councils, and that the Government was bent upon setting one community against the other. Even a London paper condemned the electoral system introduced by the Regulations. The *New Age* wrote that the proposals were 'tainted all over with a degarding appeal to class interests and always upon class interests.'

It is also interesting to note that almost the first legislative measure of the central Legislative Council set up under the Morley-Minto Reforms was to pass the Press Act of 1910. The original draft of it was very stiff; it was toned down in some respects to accommodate Mr. S. P. Sinha, the Indian Law Member of the Viceroy's Executive Council, who had threatened to resign.

The Congress Session of 1916.— For several reasons the session of the Indian National Congress held at Lucknow in 1916 is one of the most important sessions in the annals of the national organisation. In the first place, it was marked by the re-entry of the extremist party under the leadership of Lokamanya Tilak who had come out after serving his six years' term in the Mandalay jail. This was made possible by an amendment of the Congress constitution proposed by Mrs. Annie Besant. It provided that associations which had as one of their aims the attainment of self-government by India on colonial lines within the British Empire by constitutional means and had been in existence for at least two years on December 31, 1915, were entitled to send delegates to the 1916 session. The reunion of the Moderates and the Extremists in the Congress was thus the result of the efforts of Mrs. Besant. Dr. Zacharias holds the view that her plan 'was to disentangle the nationalist Extremists from their compromising alliance with the Revolutionaries, to reconcile them to a position within the British Empire, and to bring them with the Moderates into line in a re-united Congress.'

The Lucknow Congress thus contained representatives of all shades and schools of political thought in the country ; it was the first re-united Congress after the Surat session. But this reunion was not to endure ; as will be shown later it turned out to be short-lived.

In the second place, this session was dominated by Lokamanya Tilak and Mrs. Annie Besant. It was Tilak who moved the principal resolution of the session, that on self-government. It may be mentioned in passing that Lokamanya Tilak received tremendous

ovation from the people ; the horses of his carriage were unyoked, and it was pulled by enthusiastic crowds. Similarly, Mrs. Besant was recognised and accepted as 'one of the most influential leaders of the new political life and thought in the country.' She had started the Home Rule League and founded one weekly and one daily paper to popularise the movement. She was arrested by the Madras Government but released afterwards. The whole atmosphere had thus become electric and young men felt exhilerated and expected big things. The dominance of the new school was made possible by the passing away, in February 1915, of Gopal Krishna Gokhale, the greatest figure in the Congress at that time, and of Sir Ferozshah Mehta a few months later.

Thirdly, the Lucknow session was made memorable by the *rapprochement* between the Indian National Congress and the Muslim League the ground for which was being prepared during the preceding two years. The League had been brought into existence in 1906 as a counterpoise to the Congress and was mainly instrumental in keeping the bulk of the Muslims aloof from the Congress. But events were happening in India and outside which led the League to abandon its former attitude of aloofness from the Congress and change its aims and objects in such a way as to make co-operation with the Congress possible. These forces will be described in another chapter. Here only this much may be stated that Mr. M. A. Jinnah who was a staunch Congressman in those days and had refrained from joining the Muslim League on account of its purely communal character, was closely associated with the move to bring the two associations into close co-operation. He was mainly responsible for the decision to invite the Muslim League to hold its session at the same time and place as that of the Congress. This was an important step towards unity. The result was that the Congress and the League held their sessions first at Bombay in 1915, and then at Lucknow during the X'mas week in 1916. The two bodies adopted a joint scheme of reforms known as the Congress-League Scheme. Its provisions will be described in the next section. Its adoption was the result of a bargain between them. The Muslim League accepted the Congress demand for self-government, and the Congress on its side accepted the Muslim League demand for separate communal electorates. It was a heavy price which the Congress paid for unity. It agreed to the anti-national and anti-democratic

principle of separate communal respresentation under the belief that it was a temporary measure and would be abandoned at a later date. But as later events showed, the belief turned out to be illusory. Instead of being given up, the principle was applied to other minorities as well and its scope extended with the passing of every successive Government of India Act. It became the greatest obstacle to national unity, and ultimately led to the division of the country into India and Pakistan. What was hailed as a force leading to national unity produced and increased communal bitterness and strife. There is great truth in the observation of Mr. Garrat that the Lucknow Pact was made without the slightest thought for its consequences.

Lastly, it should be mentioned that the entire atmosphere of the Lucknow session was different from that of the preceding sessions. The resolutions passed and the speeches delieverd breathed a new spirit and exhibited a new outlook. One of the resolutions asked the Government to declare its intention to confer self-government on India at an early date and to lift India from its position of a dependency to that of an equal partner in the Empire with the self-governing Dominions. The Great War which was raging in Europe with great fury was to a great extent responsible for this demand for self-government. A few words about its impact on the national movement would be added in another section. Meanwhile, a brief reference to the main provisions of the joint Congress-League Scheme may be made.

The Congress-League Scheme.—In so far as effect was not given to the scheme of constitutional advance as contained in it, we may refer to its provisions briefly. It aimed at giving the Provinces the fullest practicable measure of freedom from central control. The provincial legislative councils were to have full authority to deal with all matters affecting the internal administration of the province including the power to raise loans, impose and alter taxes, and to vote on the budget. The provincial executive was to consist of a non-Civilian Governor and an Executive Council consisting of non-Civilian members half of whom were to be Indians elected by the provincial legislature. A person outside the ranks of the I. C. S. was known as non-civilian. The provincial executive was bound to act in accordance with the resolutions passed by the legislature unless they were vetoed ; but a vetoed resolution was to be given effect to if it were passed again after not less than one year. The provin-

cial and the central legislative councils were to be enlarged with large elective majorities of four-fifths. The franchise for electing the members of the legislative councils was to be as wide as possible. The Central or Imperial Legislative Council was to have full financial and fiscal powers. The demand was also made that the Viceroy's Executive Council should have Indian members elected by the elected members of the Central Legislature. Foreign affairs and defence were to be left to the control of the Central Government without interference by the legislature. India was to have the same status as the Dominions, and the relations of the Secretary of State for India with the Government of India were to be similiar to those of the Colonial Secretary with the Governments of the Dominions. India Council was to be abolished. Needless to add that these demands were considered extravagant and summarily rejected by the authors of Mont-ford scheme of reforms. It may be mentioned that in agreeing to these demands the Muslim League had to surrender to the Congress.

But in regard to the question of communal electorates the Congress had to surrender to the League. Inspite of its earlier persistent condemnation of separate electorates for the Muslims, the Congress conceded this demand of the Muslim League. Nay, they were to be introduced in the Punjab and the Central Provinces where they had not thitherto existed. Moveover, the weightage given to the Muslims was to be substantially increased. In the Central Legislature the Muslims were to have one-third of the elected seats. The representation of the Muslims in the various provincial legislative councils was also fixed. This communal arrangement, popularly known as the Lucknow Pact, was accepted by the authorities and given effect to when the Government of India Act of 1919 came into force. Its weakness has already been pointed out.

World War I.—It is not relevant to our purpose to describe the events which led to the great World War, or to follow its fortunes ; we shall only describe its impact on Indian Nationalism which was great indeed. It gave a great flllip to the national movement and helped to create a new mentality and a new outlook.

Although Great Britain was not directly involved in the incident which started the conflagration which engulfed the whole world—namely, the murder of an Austrian Prince by a Serb in 1914—she had no option but to join the war inspite of her inadequate prepara-

tions for conducting it. In her hour of need she appealed to India and to the Dominions for help. Her appeal met with ready response ; India lost no time in raising and equipping a splendid expeditionary force to fight England's battles in France, Mesopotamia and other places. Her contribution in men, money and material was great ; in the words of Lord Hardinge she was bled absolutely white during the first weeks of the war. The contribution was made with the unanimous consent of all political parties in the country ; there was no anti-British feeling in the country and no discordant voice. Surendra Nath Bannerjea writes in his autobiography that his appeal to his countrymen to bear the burdens and responsibilities of imperial citizenship and fight for the defence of the Empire went home and 'in not one of the numerous meetings that were held was there a single dissentient voice heard.' There were several causes for this 'somewhat unexpected unanimity of Indian loyalty.' Firstly, the wise and sympathetic way in which Lord Hardinge managed the affairs of the country during his viceroyalty had much to do with it. He had earlier espoused the cause of Indians in South Africa against the Government of that country ; he had insisted that Indian troops should be sent 'not as auxiliaries, nor into zones of minor strategic importance, but as the complete equals of their European comrades into breaches on the western front, on the holding of which, then and there, the outcome of the war itself depended.'* In the second place, Indian leaders took at their face value the pronouncements made by British statesmen from time to time ; they began to think that after the war a new heaven would descend upon the country and they would get a large measure of self-government. Whereas in 1885 the prospect of a self-governing India was taken to be a far-off event, something shrouded in the mists of a distant future, in 1916 it appeared to be within easy reach. For, had not Mr. Asquith, the British Prime Minister, declared at the very beginning of the War that in future the Indian question was to be viewed from a new angle of vision ; had not Mr. Llyod George declared on a later date that the principle of self-determination was to be applied to every nation, small or big ; and had it not been declared on behalf of the Allies that the War was being fought to make the world safe for democracy, that no nation, however small or weak, would be forced to live under a form of government it did not like, and that every nation, big or small, would have the right

* Zacharias : *Renascent India*, page 163.

of self-determination ? The people of India and their leaders believed these statements to be true. The view expressed by the British Prime Minister that 'Indians were joint and equal custodians of our common interests' produced in their minds the conviction that henceforth India was to occupy an honoured and proud place in the comity of nations and that her sons would be valued and trusted as comrades and friends. In short, at that time India trusted England.

It has been suggested that Indian politicians were not so simple and naive as fully to believe in the sincerity of the sentiments expressed by British and Allied statesmen. They accepted them as true so that they might be able at the appropriate time to use them as arguments for the grant of home rule or self-government to them. Some of them might have been actuated by such realistic considerations, but men like Mahatma Gandhi who had returned from his successful campaign in South Africa helped in the war effort out of a sense of duty. It does not matter much which view we adopt as to the real cause of India's unstinted help to Great Britain in the hour of her need ; the fact remains that the War raised India's political expectations and gave a great stimulus to the national movement. Whatever might have been the inner feelings of individuals—whether they regarded the British cause as just and helped Great Britain as a matter of duty or whether they had little sympathy for Great Britain and helped her in a spirit of bargaining, the Indian National Congress gave full support to the Government in its war efforts. At its 1915 session held at Bombay it passed a resolution affirming that the time was ripe for further substantial reforms which would put the nation well on the road to self-government by introducing provincial autonomy with financial independence and giving an enlarged control to the legislature over the executive. It passed a similar resolution at the Lucknow session which runs as under :

"That, having regard to the fact that the great communities of India are the inheritors of ancient civilizations, and have shown great capacity for government and administration, and to the progress in education and public spirit made by them during a century of British rule, and further, having regard to the fact that the present system of government does not satisfy the legitimate aspirations of the people and has become unsuited to the existing conditions and requirements, the Congress is of opinion that the time has come

when His Majesty, the King-Emperor, should be pleased to issue a proclamation announcing that it is the aim and intention of British policy to confer self-government on India at an early date ; that this Congress demands that a definite step should be taken towards self-government by granting reforms contained in the scheme prepared by the All India Congress Committee and adopted by the All India Muslim League ; and that in the constitution of the Empire, India shall be lifted from the position of a dependency to that of an equal partner in the Empire along with the self-governing dominions."

The impact of the war was felt in another direction also ; it was indirectly responsible to some degree for the charge in the aims and objects of the Muslim League. As the authors of the Report of Indian Constitutional Reforms have shown in paragraph 27, the crumbling of Islamic Kingdoms in Morocco and Persia hed led Mohammedans to cling more closely than ever to Turkey as the great surviving Muslim power in the world ; and when Turkey was threatened first by Italy and then by the Balkan League the excited fancy of many Indian Muslims saw in these events a concerted plot of the Christian powers to make an end of Islam as a temporal power.' The neutrality of Great Britain in the conflict between Italy and Turkey in 1911 had already produced some bitterness among the Indian Muslims ; now when they found Great Britain fighting against Turkey in the First World War, their feelings were roused still further, and they began to drift towards nationalism. This provided a very favourable atmosphere for Congress League alliance. From the British point of view also it was desirable that the Muslim intelligentsia should associate itself with the Congress rather than with Khilafatists. The League was therefore induced to accept self-government for India on colonial lines as its goal, and thus come close to the Congress. This should not be taken to mean that other factors were not pulling their weight in the same direction. All that is implied is that the war indirectly helped the Congress and the League to come to an agreement in the political field.

It may not be wrong to associate the rise of the Home Rule movement under the leadership of Lokamanya Tilak and Mrs. Annie Besant with the European War. The War can be regarded as having provided the stimulus for it. Tilak started his Home Rule

League at Poona in April 1916, and Mrs. Besant in Madras in the following September. The two Leagues worked in harmonious co-operation and contributed much to national awakening. The two Leagues were not rivals, but worked in close unison. They had the same aim and Swadeshi, boycott, national education and home-rule for India constituted the themes of the speeches and writings of both Tilak and Mrs. Besant. Students played an effective role in popularising the Home Rule movement of Mrs. Besant, so much so that the Government of Madras was forced to issue a circular prohibiting students from taking part in the movement. Their organisations were later on used by the Congress to push propoganda in favour of Congress-League scheme The Government of Madras took action against Mrs. Besant, and interned her with her two co-workers, Wadia and Arundale. There was great agitation in the country for securing their release which gave added strength to the Home Rule movement. The Government released Mrs. Besant and her co-workers after a short period. Action was taken against Tilak also. He was ordered to furnish two sureties of Rs. 10,000 each and execute a personal bond of Rs. 20,000. The order was cancelled on an appeal to the Bombay High Court. It may be added that the Irish Home Rule movement provided the inspiration and the model for Mrs. Beasant's movement.

Mesopotamian Muddle.—Before concluding this account of the repurcussions of the Great War on the political situation in India reference must be made to one very important event which had a great bearing on our constitutional advance.

As has been pointed out above, the War gave a great impetus to the national movement and wrought a great change in Indian outlook. The Congress demanded self-government for the country.* But, though British statesmen were full of praise for the great help rendered by India and were grateful for it, and had made declarations promising to look at the Indian question from 'a new angle of vision', they kept discreetly mum on the question of political reform. It is not improbable that they did not contemplate any big change in the constitutional structure of India. But an event happened which changed the situation entirely and made enlightened British opinion realise that the despotic and irresponsible rule of the Bureaucracy should cease and responsible government

* Vide Resolution of the Congress reproduced on page 84 above.

be introduced in India. This was the publication of the Parliamentary Mesopotamia Commission's Report in May 1917.

The campaign against Turkey in Mesopotamia had been left completely in the hands of the Government of India ; the British War Office had no control over it until February 1916. The campaign was a great military disaster ; it was conducted inefficiently and without proper care for the medical needs and ordinary comforts of the soldiers. A Parliamentary Commission was appointed to go into the question. Its report was a revealing document. It showed that 'that wonderful system of government in India, which amongst the British general public had hitherto been believed to be above any possible question of inefficiency, was proved to have failed, and to have failed utterly.........because it had complete *carte blanche* to do or not to do what in its own wisdom seemed good. The system itself was found to have been quite unsound ; the old myth that only the "silent, strong man on the spot" could effectively get things done "east of the Suez" had been shattered'.* One of the members of the Commission, Col. Josiah Wedgwood, recommended that Indians should be allowed a large share in the government of their own country. The defects of the Indian system of government were thus brought home to the British public in a vivid manner. The Secretary of State for India, Mr. Austin Chamberlain, had to resign, and Mr. E. S.Montagu succeeded him. He was known to be a sincere friend of India and his appointment raised high expectations. He announced Government's new policy with regard to India in the House of Commons on August 20, 1917.

This new policy and the way in which effect was given to it through the enactment of the Government of India Act of 1919 will from the theme of the next but one chapter.

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* Zacharias : *op. ct.*, page 170-71.

CHAPTER IV

Our Patriarchs

Before describing the way in which effect was given to the new policy enunciated by Mr. Montagu, it seems desirable to describe the contributions made to the national movement by some of its great leaders and architects. This would enable the reader better to understand the nature of some of the forces which shaped and determined its course. It would not be possible to refer to the contributions of more than a dozen of our patriarchs for reasons of space, though the choice as to whom to include in the list and whom to exclude from it would be exceedingly difficult. We would begin with the great Raja Ram Mohan Roy even though he died long before the birth of the Indian National Congress in 1885, because the foundations of modern public life of India were first laid by him. He has been very appropriately and justly regarded as the Prophet of Indian Nationalism. He was born in 1772, the year in which the British Parliament first declared its sovereignty over the Company's territories in India, and died in England in 1833, shortly after the first Reform Act which began the democratisation of the House of Commons was passed by British Parliament.

Raja Ram Mohan Roy.—By temperament and culture Raja Ram Mohan Roy was essentially a philosopher ; the world knows him as a great social and religious reformer and as the founder of the Brahmo Samaj. But he was also a great political thinker and played a very notable role in rousing the political consciousness of the people of Bengal and of India. In appreciating the political contributions of the great Raja we should remember the cardinal fact that it was the religious and spiritual renaissance which began with him that paved the way for the political and national awakening at a later date. The greatness of the Raja lies not so much in what he actually achieved during his life time in the political sphere as in the fact that he was the first Indian to grasp the inter-dependence of social, religious, educational and political reforms.

Raja Ram Mohan Roy was a pioneer in several fields. He was the first modern Indian to take up the question of religious

reform. As a result of the experience of early life spent in the midst of orthodox Hindu traditions, study of Hindu Shastras, study of Islamic and Christian theology, and contact with Christian missionaries, he developed a cosmopolitan and modern outlook. He realised that Hinduism could withstand successfully the criticisms levelled against it by the Christian missionaries and rational atheists only if it could be reformed and pruned of the evils that had crept into it. He therefore tried to bring his countrymen back to the purity of ancient Hinduism. He exhorted them to make themselves familiar with the sublime truths of the Upanishads as the only way to get rid of the mass of superstitions with which Hinduism had become encumbered. He was against idol worship. No image was placed in the first temple opened by the Brahmo Samaj for the worship of the 'Formless God', the eternal immutable Being. He wanted the Brahmo Samaj to be a tolerant body, devoted to the promotion of piety, virtue and benevolence, and the strengthening of the bonds of union between men of all religious persuations and creeds.

In the social sphere he advocated the emancipation of women from all sorts of social inequality, and preached against early marriage, enforced widowhood, and sati. He carried on a relentless crusade against polygamy and concubinage. He worked for the removal of untouchability and waged war against the caste system. If the Brahmos are the least caste-ridden of all Hindus and if their women have acquired a status of equality with men and are otherwise advanced, the credit goes to the Raja and to the Brahmo Samaj founded by him. It should also be remembered that the Raja was the first Hindu to cross the seas and proceed to England in modern times.

But what is of greater significance from the point of view of his contribution to the growth of nationalism is the fact that he was a pioneer in the cause of western education. He was convinced that the predominant position of the Western nations was due to the cultivation of the Western sciences. Anxious to promote the growth of English education in his own country, he sponsored the founding of the Hindu College which was opened in 1819 ; and at a later date he helped Alexander Duff and John Wilson to start the English School. In co-operation with them he laid the foundation of the system of education which has continued to this day. He was

a pioneer in the field of journalism also ; he started his vernacular journal *Sambad Kaumudi* in 1821. He was a staunch advocate of freedom of press, and liberty of thought. When he heard that constitutional manarchy was established in Spain, he gave a public dinner at the Calcutta Town Hall. He was overjoyed to hear about the success of the French Revolution.

He also suggested various reforms for bringing about purity in the administration of justice, one of which was the separation of the judiciary from the executive. Realising the difficulty of making good laws for India from Great Britain in an age when rapid means of communication did not exist, he recommended that the Government in India should try to ascertain the opinion of the public on matters which affect them vitally. This could be achieved through freedom of the press and by contacting the aristocracy of wealth. The great Raja fully appreciated the benefits of British rule in India which he regarded as a Divine Dispensation. He demanded only those political rights for his countrymen which he thought they were fit for exercising and enjoying. He never demanded political freedom for them ; he asked only for civic liberty with all its implications.

The following extract from a letter written by the Raja makes it clear that behind all his ideas of social and religious reform there lay the thought of bringing about the political regeneration of his countrymen. He wrote as follows :— 'I regret to say the system adhered to by the Hindus is not well calculated to promote their political interest. The distinction of castes, introducing divisions and subdivisions among them, has entirely deprived them of political feeling, and the multitude of religious rites and ceremonies and the laws of purification have totally disqualified them from undertaking any difficult enterprise. It is, I think, necessary that some change should take place in their religion at least for the sake of their political advantage and social comfort.'*

Swami Dayanand Saraswati.—Although Swami Dayanand Saraswati was not a political thinker like Raja Ram Mohan Roy and questions of religious and social reform engaged his attention more intimately than political issues, a few words about him seem to be necessary in view of his direct and indirect contribution to

* Quoted by Mazumdar in his *History of Political Thought from Ram Mohan Roy to Dayanand*, page 9.

national and political awakening. In several respects he anticipated the constructive programme of Mahatma Gandhi. He was perhaps the first Indian to preach the gospels of India for Indians and Swadeshi, and lead the revolt against the blind acceptance of western ideas and ideals. The deplorable condition of our womenfolk moved his sensitive soul and he fought valiantly for the betterment of their condition. He showed that early marriage, enforced widowhood and the subordinate position of women were entirely un-Vedic. The Vedas regard the woman as the divine help-mate of man in all spheres of life. Swamijee was no less chivalrous towards the untouchables. No one has been a more ardent champion of their cause than he. He threw open the doors of the Arya Samaj to them.

It is however the Arya Samaj founded by him which became a highly potent factor in the political awakening of the nation. Though not a political body, it became suspect in the eyes of the foreign government because it fostered in its adherents pride in the motherland, patriotism and the spirit of self-sacrifice. Unlike the Brahmo Samaj, it became a mass movement and generated a new life and spirit among those who came under its influence. It gave to the nation great leaders like Lala Lajpat Rai and Swami Shraddhanand. No detailed reference to its social and educational work is called for here.

Somewhat similar was the contribution of Shri Ramkrishna Paramhansa and his illustrious disciple, Swami Vivekanand, who is known as the Patriotic Saint of India. Swami Vivekanand did not give any political message ; but every one who came into contact with him developed a spirit of patriotism and political mentality. He is regarded as the spiritual father of the modern nationalist movement.

Dadabhai Naoroji.—The role of Dadabhai Naoroji, affectionately and reverently called the Grand Old Man of India by his compatriots, in the development of national life in India cannot be better described than in the words of Dr. Pattabhi Sitaramayya, the official historian of the Congress. On page 82 of the first volume of the History of the Indian National Congress he writes as follows : 'The first name in the list of patriarchs is that of Dadabhai Naoroji who, beginning his connection with the Congress from its very outset, continued to serve it till the evening of his life, and took it through the whole gamut of evolution, from the humble position of

being a people's organ seeking redress of administrative grievances to that of a National Assembly working for the definite object of attaining Swaraj. He presided over the Congress thrice, in 1886, 1893, and 1906, and throughout his association with it, held aloft the Congress banner before India and England.' It is not given to many to have such a long and distinguished record of selfless and dedicated service to the nation ; and still fewer men can be counted among the greatest persons of their times. According to Mr. C. Y. Chintamani there was none in 'the galaxy of brilliant intellects and selfless patriots' who adorned the public life of those days who could be compared to Dadabhai. Mr. Gokhale said of him, 'if ever there is the divine in man, it is in Dadabhai.'

Dadabhai founded no less than thirty institutions during his life-time. Most of them had for their aim the political advancement of the country ; but some were meant to advance social reform, particularly the education and emancipation of women. One of them was *Dnayn Prakash Mandali* ; and another, a Girls' High School at Bombay. He also founded a newspaper. Although then a government servant, Dadabhai was associated with the establishment of the first political association in the Bombay Presidency ; namely, the Bombay Association. He took part in its inaugural proceedings and delivered a neat little speech on the occasion. Mention may be made of the fact that he was Prime Minister of Baroda for some time and rendered great service in improving the tone of administration there. He was the first Indian to be elected to the British House of Commons from a British constituency, and did much useful work in educating public opinion in England in favour of India. He founded the British Indian Society in England to espouse the cause of his country. He demanded from the floor of the House of Commons and from the public platform that British rule in India should be based on British principles. When the First World War broke out, he appealed to his country-men to stand by Great Britain, and asked the British statesmen to grant to India the same right of self-government within the British Empire as had been conceded to the Dominions.

In his political philosophy he was a liberal ; he was fully conscious of the benefits India and derived from the British rule and advocated the continuation of British connection with India. He wanted Swaraj for India as an integral part of the British Empire.

The way to Swaraj lay through constitutional agitation. People should combine to give expression to their convictions and demands. It was the firm conviction of Dadabhai that the united voice of the nation was bound to be heard. He said that the officials in India might turn a deaf ear to the wishes and representations of the people ; but the liberty-loving people of England would listen to them and, if convinced of the justice of their demands, concede them. The following extract from his presidential address at the Calcutta session held in 1906 explains the basic principles of his political faith. He said : 'Our faith and our future are in our hand. If we are true to ourselves and to our country and make all the necessary sacrifices for our elevation and amelioration, I for one have not the shadow of doubt that in dealing with such justice-loving, fair-minded people as the British, we may rest fully assured that we shall not work in vain. It is this conviction which has supported me against all difficulties.' It is interesting to note that though it was Lokamanya Tilak who raised and popularised the slogan 'Swaraj is my birthright, and I shall have it', the credit of demanding Swaraj from the Congress platform for the first time belongs to Dadabhai. Swaraj was the key-note of his presidential address at the Calcutta session. He said : 'We do not ask for favours. We want only justice. Instead of going into any further divisions or details of our rights as British citizens the whole matter can be comprised in one word—'Self-government' or Swaraj, like that of the United Kingdom or the Colonies.' Since then, self-government became the pivotal demand of the Congress. His presidential address in 1906 may be said to have begun the second era in the history of the Congress.

This short account of the manifold contributions of Dadabhai Naoroji would remain incomplete without reference to his pioneer work in another direction. He was the first Indian politician to draw the attention of his countrymen and of the British public to the drain of India's wealth to Great Britain as a direct consequence of the British rule, and to the resulting poverty of her people. A very large portion of the wealth of India was being taken away to England in many subtle ways. Of this fact the people in England had no conception. Dadabhai set before himself the difficult task of of proving to them the appalling poverty of the Indian people and the costliness of the British system of administration in this country and its extravagance and indifference to public welfare. The results

of his labour are contained in his monumental work, *Poverty and Un-British Rule in India.*

Mahadev Govind Ranade.—Mahadev Govind Ranade, popularly known as Justice Ranade because of the position he held as a Judge of the Bombay High Court, was second only to Dadabhai Naoroji according to Mr. C. Y. Chintamani. He was a great scholar, thinker, patriot, unselfish worker, social reformer, and a deeply religious soul. Holding the high office of a High Court Judge he did not feel free to join a purely political body like the Indian National Congress and become an active politician ; but he furnished the inspiration for the Congress movement, and was closely associated with it from the day of its inception. Dr. Pattabhi Sitaramayya describes him as the power behind the throne. He managed to keep touch with the National Congress by holding the sessions of the Social Reform Conference which he organised along with the annual sessions of the Congress. His work in the sphere of social reform alone would have earned for him a lasting place in the affections of the people ; the scope of his activities, however, extended over a much wider field. He espoused numerous causes and established many organisations to further them. One of them was the Deccan Educational Society. It started a school at Poona which developed into the famous Fergusson College. Later on it established the Willingdon College at Sangli. Gokhale and Tilak also were associated with the Deccan Educational Society.

Mahadev Govind Ranade was a great economist and historian also. His *Essays in Indian Economics, Essays in Religious and Social Reforms* and *Rise of the Maharatta Power* deserve to be read by every student. We may sum up the character and contributions of Ranade in the following words of Shri C. Y. Chintamani : 'Ranade was mighty in intellect, a man of prodigious industry and of vast and various learning ; a profound thinker ; and ardent patriot. Handicapped as he was by being in Government service all his life, he was a keen political worker, a religious reformer and a still more ardent social reformer, one of the greatest authorities on Indian economics, a great educationist. the inspirer and instructor of younger men who flocked to him.' *

Gopal Krishna Gokhale.—One of the young men who flocked round Ranade and was destined to outshine the master was Gopal

*. C. Y. Chintamani : *Indian Politics since the Mutiny*, page 37.

Krishna Gokhale. As Dr. Zacharias points out, never had a guru a more apt pupil than Ranade in Gokhale. He imbibed the spirit of the master and never wavered from the path of moderation and sweet reasonableness laid down by him.

After graduation in 1884 in the midst of poverty, Gokhale decided to dedicate himself to the service of the country and joined the Deccan Educational Society in the foundation of which his guru Ranade had played a notable part. He began as a school master, but soon became the Principal of the Fergusson College. He relinquished this post in 1902 after having put in nearly 20 years of service under the Deccan Educational Society on Rs. 70 p. m. At the suggestion of Ranade he became the editor of the Quarterly Journal of the Poona Sarvajanik Sabha in 1887, and subsequently became the Hony. Secretary of the Deccan Sabha. In 1897 he was selected along with Mr. Wacha to proceed to England and give evidence before the Welby Commission on Indian expenditure. In 1902 he was elected to represent Bombay on the Supreme Legislative Council. His first speech on the budget was a revelation to the public, and since then his speech on the budget was looked forward to with great interest. He had the knack of saying the hardest things in the gentlest language. While pleasant in speech and criticism, he never minced matters. In the Council Chamber he acted as the champion of the poor and the oppressed, and pleaded for the abolition of the salt tax, the adoption of compulsory primary education, equal treatment to Indians as regards recruitment to the Public Services, the reduction of expenditure of the government and the removal of British control over Indian finance. He visited Great Britain several times, twice as a member of Congress deputations, where his speeches produced great impression. It is interesting and flattering to note what the editor of the *Nation* said about him. He remarked that there was no statesman in England comparable to Gokhale, that he was greater than Mr. Asquith himself. He also visited South Africa and rendered great help to Gandhijee in his campaign of passive resistance against the government of that country.

Great as was his work as a member of the Supreme Legislative Council, greater was his contribution to the nation in the shape of the famous Servants of India Society. He founded this unique institution with a view to the 'training of national missionaries for

the service of India, and to promote, by all constitutional means, the true interests of the Indian people.' He wanted to spiritualise public life by training persons who would be prepared to devote their lives to the service of the nation in the religious spirit, in the spirit of a political sanyasi who has conquered himself by hard, ascetic discipline and has taken the vow of renunciation. In the language used by Shri Jinarajadasa we may describe a political sanyasi as a man 'who wears the garb of ordinary men, mingles with them as one of themselves, and yet inwardly is the renouncer.' The Servants of India Society has given to the nation men like the Rt. Hon. V. Srinivas Sastri, G. K. Devadhar, N. M. Joshi, Pandit Hirday Nath Kunzru, and Amrit Lal Thakkar, each of whom found his life's work in some field of social service.

In politics Gokhale was a true liberal; he had learnt from his Guru, Mahadev Govind Ranade, the desirability and necessity of moderation and sweet reasonableness, not only of manners but of aim also, and had moulded his life on this principle. He firmly believed that the regeneration of his country could not be achieved 'amid a hurricane of political excitement, but only step by step. In such a gradual process it was of the essence of the solution of the problem to enlist the support of the British by appeals to their better nature.'* He was one of those truly great men still rare in India, who rise above partisanship, who can warmly appreciate the good even if initiated by an opponent, and who appraise men's actions, not by the exigencies of the moment, but by the great principles which transcend time.' † It was because of his deeply spiritual nature and adherence to rectitude that Mahatma Gandhi decided to make Gokhale his political guru on his return to India. Writing about his meeting with Gokhale and Tilak, Mahatmaji wrote as follows: 'Sir Ferozeshah had seemed to me like the Himalayas—unscalable; the Lokamanya like the Ocean—and one could not easily la nch forth on the sea. But Gokhale was as the Ganges—it invited one to its bosom. In the sphere of politics the place that Gokhale occupied in my heart during his life-time and occupies even now has been and is unique.' Gokhale was much misunderstood by some of his contemporaries who decried him as a faint-hearted politician. Such as estimate of

* Anerews: *India and the Simon Report*, page 112.

† Zacharias: *op. ct.*

him is quite wrong. He lacked neither manliness nor courage, but he subordinated politics to ethics and never wanted to depart from the path of moderation and sweet reasonableness. The difficulty of his position arose from the fact that he wanted to interpret popular aspirations to the Government, and place the difficulties of the Government before the Congress. When he died in 1915, Tilak paid him a handsome tribute by describing him as 'the diamond of India, the jewel of Maharashtra, and the prince of workers.' Lala Lajpat Rai described him as the noblest and best of Congress workers and said that his patriotism was of the highest and purest type.

Bal Gangadhar Tilak.—Maharashtra gave to the nation not only Ranade and Gokhale, but also Bal Gangadhar Tilak who came to be lovingly and reverentially described as Lokamanya. On account of his services and sufferings he came to be regarded first as the uncrowned king of Maharashtra, and at a later stage during the Home Rule agitation, as the uncrowned king of India. In his politics and methods of work he differed radically from Gokhale, Surendranath Bannerjea, Ferozshah Mehta and other moderate leaders of the Old Guard ; he tried to inject a new spirit and a new outlook in the National Congress. Along with Lala Lajpat Rai and Bipin Chandra Pal he organised the extremist section of Congressmen.

Soon after taking his degree in Law in 1879 he came into contact with Mr. Agarkar, and the two matured a plan for the establishment of a school and college for imparting cheap education. The Poona New English School came into existence in January 1890. He was joined by other ardent workers, and two newspapers, the *Kesari* and the *Maharatta*, were started. He was also associated with the formation of the Deccan Educational Society and the establishment of the Fergusson College. But he found it difficult to pull on with his colleagues in the Society and parted company with Gokhale and Agarkar. He became the proprietor of the two papers and used them to good purpose in stimulating political consciousness among the masses He also organised two national festivals, the Shivaji festival and the Ganapati festival, which brought him into close contact with the masses who began to love and adore him. His work in the famine which visited that part of the country in 1896, and in the plague epidemic which spread in the following year won him great popularity with the masses. He was

twice elected to the Bombay Legislative Council and was also a member of the Municipal Board of Poona. He was the Secretary of the Deccan Standing Committee of the Congress for some years and organised the Bombay Provincial Conference for the first five years.

Whereas Ranade and Gokhale believed in moderation and sweet reasonableness, Tilak was a great advocate of agitation, ceaseless agitation. He directed his attention to the organisation of Maharashtra, and with that end in view started *akharas* and *lathi* clubs, and even anti-cow killing societies. The Shivaji and and Ganpati festivals were organised with the same end in view. He poured ridicule over the method of representation and prayer and tried to induce the Congress to show a little grit and adopt a more self-reliant method. In 1899 he wanted to move a resolution condemning the regime of Lord Sandhurst but was not allowed to do so. His extremism led to the split in the Congress ranks at Surat.

Lokamanya Tilak was among the first Congress leaders to suffer several terms of imprisonment at the hands of the foreign Government. He was first tried and sentenced to four months imprisonment for having criticised in strong language the treatment accorded to the Maharaja of Kolhapur. He was tried for having instigated the murder of Mr. Rand and Lt. Ayerst in 1897 through his articles in the *Kesari* and sentenced to 18 months, and was not given leave to appeal. In 1908 he was tried for sedition and sent to Mandalay for six years. There he wrote the famous and scholarly *Gita Rahasya* and the *Arctic Home of the Vedas*. On his release he became a national hero, and organised the Home Rule League in 1916.

Lokamanya Tilak's contribution to the national movement was two-fold. He was one of the great trio responsible for the emergence of extremism in Indian politics. Mr. Montagu wrote about Tilak that he was very extreme and had probably the greatest influence of all the persons. In the second place, he tried to make the Congress a mass movement. In this respect he was a forerunner of Mahatma Gandhi. In recognition of the services rendered by him to the nation the Tilak Memorial Swaraj Fund of about a crore of rupees was raised by the National Congress. The real character of Lokamanya as a political fighter would be clear from the following comparison between him and Gokhale as drawn by Dr. Sitaramayya. He writes :

'Tilak and Gokhale......were both patriots of the first order. Both had made heavy sacrifices in life. But their temperaments were widely different from each other. Gokhale was a Moderate and Tilak was an Extremist if we may use the language in vogue at that time. Gokhale's aim was to improve the existing constitution ; Tilak's was to reconstruct it. Gokhale had necessarily to work with the Bureaucracy ; Tilak had necessarily to fight it. Gokhale stood for co-operation wherever possible and opposition wherever necessary. Tilak inclined towards a policy of obstruction. Gokhale's primary concern was with the administration and its improvement ; Tilak's supreme concern was the nation and its upbuilding. Gokha e's ideal was love and sacrifice ; Tilak's was service and suffering. Gokhale's methods sought to win the foreigner ; Tilak's to replace him. Gokhale depended upon other's help ; Tilak upon self-help. Gokhale looked to the classes and the intelligentsia ; Tilak to the masses and the millions. Gokhale's arena was the Council Chamber ; Tilak's forum was the village mandap. Gokhale's objective was Self-Government for which the people had to fit themselves by answering the tests prescribed by the English ; Tilak's object was Swaraj which is the birth-right of every Indian and which he shall have without let or hindrance from the foreigner. Gokhale was on a level with his age ; Tilak was in advance of his times.'*

Other Leading Men.—Besides the four great leaders whose contributions have been described in the preceding sections there were other eminent men also who enriched public life of the western presidency and of India. Among them mention may be made of Sir Pherozeshah Mehta, Sir Dinshaw Eduljee Wacha, Justice K. T. Telang, Badruddin Tyabji, Rahimatullah Sayani, Gokuldas Parekh, Narayan Ganesh Chandavarkar, Hormushji Wadya, Chaman lal Setalvad, and Narayan Madhav Samarath.

Lala Lajpat Rai.—From the western presidency we may go over to the Punjab and make a brief reference to the activities of Lala Lajpat Rai who dominated the public life of the province for a long time. He was known as the Sher-i-Punjab, *i. e.*. the Lion of the Punjab. He was a prominent member of the Arya Samaj and had the fighting spirit and pride in his country and its civilization which one usually associates with the members of the Samaj. He was a

* *History of the Indian National Congress*, page 99.

great educationist ; and as one of the founders of the D. A V. College, Lahore, made considerable sacrifices for the institution. He was a keen social reformer and a forceful journalist. He founded and edited several papers, the more important of which were the *Punjabee*, the Urdu daily *Bande Matram*, and the English weekly *People*. He was an effective orator, and could arouse the emotions of the people to white heat. Shri C. Y. Chintamani puts Lala Lajpat Rai along with Mr. Lloyd George as a public speaker.

Like Lokamanya Tilak he too suffered greatly for his ardent patriotism. In 1907 he was deported along with Sardar Ajit Singh under the obsolete Regulation III of 1818 without trial. During the First World War he was practically an exile in the U. S. A. where he did much to educate public opinion in regard to India. He was allowed to return to India after about an year and a half of the conclusion of the war. In politics he was inclined towards extremism; he was associated with Lokamanya Tilak in the organisation of the extremist section. His name was proposed by Lokamanya Tilak for the presidentship of Surat session but was opposed by Gokhale who said : 'If you flout the Government, Government will throttle you.' But he very gracefully withdrew his name as he wanted to avoid contest. Along with Gokhale he was deputed to visit England to place the claims of Indians before the British electors. On his return from there he told his countrymen that if they really cared for their country, they should no longer be content to be mere beggars but must learn to depend upon their own efforts. He was elected to preside over the special session of the Congress held at Calcutta in 1920. At first he was not in favour of the non-cooperation movement, but later on he flung himself whole-heartedly into the struggle and suffered imprisonment. When the Council front was created after the withdrawal of the non-cooperation movement, he entered the Central Legislature and did effective work as the deputy leader of the Swaraj party. Some differences arose between him and his colleagues and along with Pundit Madan Mohan Malaviya he organized the Hindu Sanghatan movement for the protection of the Hindu interests. He believed in Hindu-Muslim unity but was not prepared to sacrifice Hindu interests. He died a martyr's death as a result of the lathi blow he received while leading the demonstration against the Simon Commission when it visited Lahore in 1928. His death created a gap in the Punjab which could not be filled, and left the country

poorer. He was one of the top-ranking leaders of the Congress of all-India fame. He founded and organised the Servants of the People Society.

Pundit Madan Mohan Malaviya.— Coming to our own province we notice that its leading public man was the venerable Pundit Madan Mohan Malaviya. Mr. Chintamani says of him that he was recognised as a leader from the very start of his career. He joined the National Congress in 1886 and continued to serve it with unbroken zeal and unabated passion. At times, however, he protested against its policies but never left the organisation. For example, though he was opposed to the non-cooperation movement and, at a later date, to the civil disobedience movement, he remained a congressman, and when the call came, he threw off his hesitation and defied the British Government as a civil resister and satyagrahi. 'The Moderates had manned the Congress in their day and abandoned it ; Mrs. Besant captured it and surrendered it. But through storm and sunshine, through good report and evil, Punditji has stuck to it. Punditji is the one man who has had the courage to be alone in what he considered to be right......He never yielded to the current forces, either by sheer intertia, or by fear of popular reprobation. When all the Congressmen resigned their places in the Assembly in 1929, he remained and had the right to remain there as a member......And when in less than four months the time and occasion demanded it, he resigned in 1930.' *

Pundit Madan Mohan Malaviya was not only a nationalist but also a Hindu with progressive views. He presided over the Congress sessions twice, and over the Hindu Mahasabha thrice. He thus tried to reconcile his Hinduism with his nationalism and blend the two into a beautiful whole. Inspite of the fact that he deemed it his duty to protect Hindu interests he held a privileged position in the Indian National Congress. He was equally respected in the Government quarters, and more than once acted as an intermediary between the Government and the Congress. He could achieve all this because of his innate goodness, piety, simplicity and unselfishness.

Malaviyaji was a great social reformer and educationist. He used to give diksha to persons who were not deemed worthy of it by the orthodox Brahmins. His greatest gift to the nation is the

* Dr. Pattabhi Sitaramayya : *op. ct*., page 101—2.

Banaras Hindu University. It is practically his creation. He travelled over the length and breadth of the country in collecting subscriptions for it. He succeeded in placing it on a stable footing. It is one of the greatest educational institutions in the country.

Pundit Madan Mohan Malaviya was much interested in journalism. He was offered the editorship of the *Hiudustan* in 1887 which post he held for two and a half years, and made the paper a great success. Later, he became the editor of the *Indian Union.* At a later date he started the Hindi weekly *Abhyudaya.* Feeling the need of an English daily at Allahabad to voice the opinions and ventilate the grievances of the people of the province he worked hard to bring the *Leader* into existence. He was a great orator. About the first speech he made in the Calcutta session of the Congress in 1886 Mr. Hume wrote as follows in his report of that year's Congress : 'Perhaps the speech that was most enthusiastically received was one made by Pundit Madan Mohan Malaviya, a high caste Brahmin, whose fair complexion and delicately chiselled features, instinct with intellectuality, at once impressed every eye, and who suddenly jumping upon a chair beside the President poured forth a manifestly impromipt speech with an energy and eloquence that carried everything before them. He at once became a favourite on the Congress platform and steadily rose in importance. He was elected to the Legislative Council in 1902 and for long adorned the benches on the central legislature where he distinguished himself by his ability, independence and moderation.

Surendranath Bannerjea.—Bengal, which is politically the most advanced province in India, gave birth to a large number of eminent personalities in the domain of politics ; *e. g.*, Womesh Chandra Bannerjea, Manmohan Ghosh, Lalmohan Ghosh, Romesh Chandra Dutta, Surendranath Bannerjea, Anand Mohan Bose, Kali Charan Bannerjea, Bipin Chandra Pal, Ambika Charan Mazumdar, and Bhupendra Nath Basu. Of them the leading personality was Surendranath Bannerjea ; in the course of his public life he achieved reputation which is given to few only. We shall limit ourselves only to him and add a few words about Bipin Chandra Pal and say nothing about the rest even though their contributions were in no way insignificant.

The story of the way in which he was drafted into politics has already been told. Surendranath Bannerjea was one of the

very few Indians who could successfully compete for the Indian Civil Service in England in the sixties of the last century ; but he was disqualified on a technical ground. When he was reinstated as the result of an appeal to the Queen's Bench Division, he was dismissed from service after a couple of years on a flimsy charge. That was a turning point in his career ; from government service he turned to service of the country. For forty years his trumpet voice resounded from the Congress platform and reached every nook and corner of the country. In oratory he was hardly equalled, much less surpassed ; in the judgment of some he was to India what Demosthenes was to Greece and Cicero to Italy. Sir Henry Cotton wrote in his *New India* that Surendranath Bannerjea could raise a revolt or suppress a rebellion by the power of his tongue. His oratorical talents were largely responsible for his great popularity. Like many other Indian patriarchs Surendranath Bannerjea was a great equcationist. After having been dismissed from the Civil Service he joined the staff of the Metropolitan College, Calcutta, as a Professor of English Literature. A few years later he started a school of his own which developed into the Ripon College. From education he turned over to journalism and took over charge of the *Bengalee* which subsequently became a daily paper. Through the columns of the *Bengalee* Surendranath Bannerjea made a very valuable contribution to the growth of political consciousness in Bengal.

Through the united efforts of Mr. Bannerjea, Anand Mohan Bose and others the Indian Association of Calcutta was ushered into existence in 1876. It was on behalf of this association that Mr. Surendranath toured all over the country and preached the gospel of constitutional agitation. Though he played a notable role in the establishment of the Indian National Congress,— the letter inviting leading citizens of the country to attend the inaugural session of the Indian Union was issued under the joint signatures of Bannerjea and Hume,—he could not be present at its first session. But he never missed any session afterwards ; and had the honour of moving important resolutions year after year. In recognition of his services to the national cause he was twice elected President of the Congress, once in 1895 and again in 1902. He took a leading part in organising the anti-Partition agitation in Bengal, and preached the boycott of British goods. During the anti-Partition agitation he was nicknamed as Surrender-Not Bannerjea.

Like Gokhale, Tilak, Lajpat Rai, Malaviyajee, and other eninent politicians of those days, Mr. Surendranath Bannerjea was elected to the provincial Legislative Council and did much useful work there. In politics he was a moderate or liberal. He always worked with unwavering loyalty to the British connection, and desired the broadening of the basis of the British rule in India and the liberalisation of its spirit, and not its end. When there was schism in the Congress over the Montagu-Chelmsford Reforms, Mr. Surendranath Bannerjea left the Congress with some of his colleagues and helped in organising the Liberal Federation. When the Government of India Act of 1919 came into operation he became a Minister in Bengal and tried his best to make Dyarchy a success. He has given a vivid account of his life and activities in his autobiography : *A Nation in the Making*. As a minister he did much useful work : his countrymen gratefully remember the changes introduced in the constitution of the Calcutta Corporation during his regime.

Bipin Chandra Pal.— As a member of the famous trio— Lal-Bal-Pal, meaning Lajpat Rai, Balgangadhar Tilak, and Bipin Chandra Pal— which made a rich contribution to the national movement by organising and leading the extremist wing of the Congress, Bipin Chandra Pal cannot be passed over in this account of leading personalities. He was a man of great ability and an orator of renown. He rose to fame in the anti-Partition agitation and carried the message of Swadeshi, National Education and Boycott to distant parts of the country. As an extremist he was in advance of even Lokamanya Tilak in some respects. He would not accept Swaraj as a gift from the Britishers, but would win it for the country by the combined effort of his fellow-countrymen. He was for creating such a force in the country as would compel the foreign rulers to agree to the national demand.

Bipin Chandra Pal was also a journalist. His writings in *New India* and *Bandematram* exercised magical influence over the young men of those days. Feeling rather out of joint with the changing political situation in the country he parted company with the Congress, and even with extremism.

Aurovindo Ghosh.—Though the association of Rishi Aurovindo Ghosh with politics was slight and temporary— he shot into prominence during the anti-Partition agitation and then retired from

active politics— it would be irreverence to pass him over completely. Like Surendranath Bannerjea he was disqualified for the Civil Service, because he had failed in the riding test. He resigned the Principalship of the Baroda College to become the President of the National Council of Education in Bengal during the anti-Partition agitation. This shows his great and innate love for India. In 1906 he became the editor of the nationalist paper *Bande Matram* in which he preached that self-help and passive resistance were the most effective means of enforcing the national demand. He was associated with the revolutionary movement in Bengal. He was arrested in connection with the discovery of a bomb-factory in Manick-tolla, but was acquitted. He went to Pondichery in 1910 to avoid arrest, and spent the rest of his life there in meditation and reflection. As a sage and seer he revolutionised our thought, while as a leader of the anti-Partition agitation and revolutionary activities he had revolutionised our action.

Maulavi Mazar-ul-Haq.—A few words may be added about Maulavi Mazar-ul-Haq, a stalwart Muslim nationalist of Bihar and a very warm and sincere supporter of the Indian National Congress. He was strongly opposed to communalism, and seconded the resolution condemning communal representation at the Allahabad Congress in 1910 in a very able speech. It required great sincerity of conviction and honesty of purpose for a Muslim to oppose the scheme of communal representation which had been prepared by the Government. Maulavi Mazar-ul-Haq went to England as a member of the Congress deputation in 1914. He was greatly honoured and loved by the people of Bihar on account of his patriotism and saintliness of character.

Our European Friends.—It would be ungrateful on our part if we fail to make mention of the valuable help rendered to the national cause by our English friends. The chief among them were Mr. Allan Octavian Hume, Sir William Wedderburn, Eardley Norton, George Yule, Sir Henry Cotton, W. S. Caine, William Digby, Charles Bradlaugh, Samuel Smith, Keir Hardie, and Col. Wedgwood. Mr. John Bright who entered the British Parliament in 1847 continued to take interest in Indian affairs to look after her interests till 1880. Similarly, Mr. Fawcett rendered yeomen's service to India as a member of Parliament since the day he entered it in 1865.

We shall briefly state the services rendered to the national cause by Mr. Hume and Sir William Wedderburn.

Allan Octavian Hume.—The role played by Mr. Hume in the establishment of the Indian National Congress in 1885 has already been referred to. It would be recalled that he addressed a soul-stirring letter to the graduates of the Calcutta University asking them to organise themselves in the form of an association for the moral, social and political regeneration of their country. He said that if he could get fifty men, good and true, motivated by the spirit of selfless service and inspired by the moral ideal, the association could be established. He asked them to renounce personal ease and pleasure, and place before them the dictum : 'He that is greatest among you, let him be your servant.' He held consultations with the Governor General about his scheme of organising an association of Indians and secured his good wishes. He went, to England and succeeded in enlisting the sympathy and support of responsible persons for his scheme. On return he issued a letter over his own and Surendranath Bannerjea's signatures convening the Conference which became the first session of the Congress. It is for this reason that he came to be known as the father of the Indian National Congress. He bacame its first General Secretary, and continued to serve it as such, alone or with others, till 1907. He warmly defended the Congress against its critics and held that the anti-Congress party depended upon the support of a small but influential section of the Anglo-Indians. He was a member of the deputation sent by Congress to England

Mr. Hume's services to India did not begin after his retirement from the Indian Civil Service ; he was interested in India even when in the service of the Crown. 'As a District Magistrate he laboured for the cause of popular education, police reform, the liquor traffic. the vernacular press, the juvenile reformatories, and other domestic requirements. His one interest was the village and its agriculture, his one care and concern was for the people.'* For honesty, independence, and love for India Hume was removed from his post as the Secretary to the Government of India which he held from 1870 to 1879. He declined to become the Lt. Governor of a province, and the Secretary of State for India would not make him the Home Member of the Government of India. He retired from service in 1882.

* Dr. P. Sitaramayya :*op. ci.*, page 77.

Sir William Wedderburn.— Like Mr. Hume, Sir William Wedderburn was also an Indian Civilian. He loved to call himself a 'hereditary servant of India ' As a member of the Indian Civil Service he was always sympathetic towards the Indians and was loved and respected by the people. After retirement he continued to serve India as the Chairman of the British Congress Committee for the expenses of which the Congress used to vote sums ranging from Rs. 10,000 to Rs. 50,000 annually. He gave to India not only his time but also his money. Religiously he spent on the Indian cause the whole of his pension of £ 1,000 a year which he drew for 29 years. He must have thus spent several lakhs of rupees for India. He was member of British Parliament for seven years, and did what he could to further the Indian cause. He was twice elected as the President of the National Congress, once in 1904 and again in 1910. He came all the way from England to preside over the Allahabad session in 1910 in order to 'remove the official wedge so astutely driven between Hindus and Muslims, and also, if possible, to heal the breach made at Surat between Moderates and Extremists.'* The tribute paid to Sir William Wedderburn by Gopal Krishna Gokhale depicts his character and personality as no other words can. He said : 'The picture of this great and venerable *rishi* of modern times is a picture that is too ennobling, too beautiful, too inspiring for words : it is a picture to dwell upon lovingly and reverentially and it is a picture to contemplate in silence.'†

Mrs. Annie Besant.—We would conclude this chapter with a short account of the contribution of Mrs. Annie Besant to the cause of India Nationalism. Though Irish by birth, she adopted India as her country and served her with a zeal and devotion equalled by few. She jumped into Indian politics in 1914 and soon left many of the old political workers behind her. She was endowed not only with great learning and a penetrating intellect, but was also gifted by nature with an indomitable will and undaunted courage. She would never know rest until the work to which she set herself was over. She was also one of the greatest orators of the period.

She stood aloof from the political movement during the anti-

* Zacharias : *op. ct.*, page 161.
† Quoted from Chintamani : *Indians Politics since Mutiny*, page 35.

partition agitation, but threw herself wholeheartedly into it in 1914. She struggled hard for bringing about a reconciliation between the Moderates and the Extremists in the Congress, and for this purpose started a weekly paper, the *Commonweal*, at Madras ; and six months later, she purchased a daily paper and renamed it *New India*. It was largely as a result of her efforts that the Extremists were readmitted into the Congress. In 1916 she started her Home Rule Leauge and 'under its auspices established organisations throughout the country, distributed vast quantities of propagandist literature, and was to be found here, there, and everywhere with speeches which always kindled and never restrained.'* As has been stated already, she was interned with her co-workers by the Government of Madras, but was released after about three months.

In her politics she was neither a moderate nor an extremist. She strove hard for getting Home Rule for India: and told Mr. Montagu that she would accept any scheme of constitutional reforms, provided it led to complete Home Rule within a short time. She was thus more advanced than the Moderates. But she was stoutly opposed to all ideas of India severing connection with Great Britain and becoming independent. She was also opposed to the non-co-operation movement and therefore left the Congress when Mahatma Gandhi launched it.

She favoured Swadeshi, but not as a political weapon ; she was opposed to the boycott of British goods. She greatly favoured national education, and started the Central Hindu High School and College at Banaras. The Central Hindu College later developed into the great Banaras Hindu University. In recognition of her services to the nation, Mrs. Besant was elected President of the Congress in 1917.

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* Chintamani :*op. ct.*, page 85.

CHAPTER V

The Beginnings of Responsible Government

[THE GOVERNMENT OF INDIA ACT OF 1919]

Introductory : Mr. Montagu's Pronouncement.— Inspite of the fact that even the Indian Moderates were very much dissatisfied with the results of the working of the Morley-Minto Reforms and the Congress was pressing for further reforms, the view was generally held in Great Britain that a considerable time would elapse before any advance beyond the stage reached in 1909 could be justified. In 1912 the Liberal Secretary of State for India, Lord Crew, disavowed the idea of Dominion Status as the goal of British policy in India. But, as has been pointed out in a previous chapter, the War changed the situation completely. Under its impact the demand of the Indian National Congress rose very high. Nay, what is more important, the report of the Parliamentary Commission proved beyond a shadow of doubt that the highly centralised and irresponsible machinery of the Indian Government required a radical change. This conviction found expression in the historic pronouncement made by Mr. Edwin Samuel Montagu, Secretary of State for India, on August 20, 1917, which was the basis of all subsequent legislation by the British Parliament in relation to India. In the course of it he said : 'The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of increasing association of Indians in every branch of the administration, and the *gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire.** The progress in this policy can only be achieved by successive stages. The British Parliament and the Government of India must be the judges of the time and measure of each advance.'

The first part of this declaration of policy contained nothing new ; it simply made explicit what was implicit in the meagrely fulfilled promise contained in the oft-quoted clause of the Charter Act of 1833. But the second part of it italicised above constituted

* Italics ours

a great and fundamental departure from the traditional policy ; it was startlingly novel. In the past whenever the question of Indian constitutional advance was mooted, British statesmen were definite in their assertion that is was not their aim to introduce the parliamentary system of government in India. The emphatic declaration of Lord Morley that he would have nothing to do with the Act of 1909 if it could be shown that it led directly or indirectly to the establishment of parliamentary system of government in India, and the assertion of Lord Crew in 1912 that he saw no future for India on lines of colonial self-government would be recalled in this connection. Lord Crew added that the 'experiment of extending a measure of self-government practically free from parliamentary control to a race not our own is one which cannot be tried.' Now, it was precisely this very type of government which the historic pronouncement of August 20 envisaged for India. What was held to be an impossibility in 1909 and in 1912 was found to be feasible and desirable in 1917.

This should not be taken to mean that His Majesty's Government aimed at the *immediate* establishment of full responsible government in India. Mr. Montagu stated clearly and unambiguously that responsible government was to be realised gradually and through successive stages. 'I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.'

It would be observed that the term Dominion Status does not occur anywhere in the Declaration of August 20. Nay, even the use of the word self-government was avoided ; the term responsible government was used in its place. This change in the draft was made by Lord Curzon. Nevertheless, it was implicit in this declaration that some day India was to attain Dominion Status. Nothing less than this is conveyed by the phrase 'realisation of responsible government in India as an integral part of the British Empire'. As Coupland says, this implies that India 'could acquire a real nation-

hood which could be embodied, as in the Dominions, in a national system of government.'*

This declaration of policy was hedged in by many words of caution and safeguards. It therefore failed to give complete satisfaction to Indians who had been kept expectant for long. But it eased the political situation a good deal, and kept Indian quiet during the most critical period of the War.

Montagu's visit to India.— With a view to the drawing up of a scheme of reforms, in consultation with Indian leaders and officials of the Government of India, which would implement the Declaration, Mr. Montagu came to this country in November, 1917, and stayed until May, 1918. He has given an account of his stay in India in his interesting book, *An Indian Diary*. He met top-ranking leaders of the National Congress, both extremists and moderates, and also of the Muslim League. He was invited by Mrs. Besant and Tilak to attend the Congress session, but was prevented from doing so by the Bureaucracy.* He wished to proceed far enough in his proposals for reform, but the attitude of the Indian Bureaucracy acted like a deadweight ; he was alarmed to find that the idea of reforms had sunk very little in the minds of the Bureaucracy who seemed to think that things would go on as before.

Montford Scheme.— In consultation with Lord Chelmsford Mr. Montagu drew up the Report on Indian Constitutional Reforms, popularly known as the Montford Scheme, which was published in July, 1918. After having studied the past development and the working of the Morley-Minto Reforms and in view of the rising demand of Indians for self-government, the authors of the Report came to the conclusion that no further development along the old lines was possible ; some measure of responsibility for their own government had to be given to Indians. They also realised that in a country like India which had no parliamentary traditions behind it, the introduction of full responsible government all at once was impracticable ; it would have invited certain break-down and disaster. They came to the conclusion that self-government had to develop slowly and gradually. But the first step—it was to be a substantial step—was to be taken. To meet these requirements, the Report laid down the following formulae :

(*i*) 'There should be, as far as possible, complete popular

* Coupland : *India, a Restatement*, page 111.

control in local bodies and the largest possible independence for them of outside control.'

(*ii*) 'The provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative, and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities.'

(*iii*) 'The Government of India must remain wholly responsible to parliament, and saving such responsibility its authority in essential matters must remain undisputable, pending experience of the effect of the changes now to be introduced in the provinces. In the meantime, the Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing Government increased."

(*iv*) "In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and Provincial Governments must be relaxed."

The scheme of the constitutional advance put forward by Mr. Montagu and Lord Chelmsford in their Report was based upon these four cardinal points ; namely, popular control over local bodies, partial responsibility or dyarchy in the provinces, increased opportunities of influencing Government in the centre but without any responsibility, and relaxation of the control of the Secretary of State to the degree demanded by the extent to which power was transferred to the people. The principle of separate communal representation was subjected to a critical examination ; but inspite of its anti-national and anti-democratic character, the authors of the Report found it impossible to throw it overboard in view the existing situation and opined that it might have to extended to the Sikhs.

Birth of the Liberal Federation.—The publication of the Montagu-Chelmsford Report in July, 1918, became a signal for the accentuation of the differences between the Extremists and the Moderates ; it destroyed the political unity of the Indian National Congress. The two sections held radically divergent views on the reform proposals. The extremists found them unsatisfactory and

unacceptable, unless materially altered. The declaration of Mrs. Besant that the Reforms were 'ungenerous of England to offer and unworthy of India to accept', and that of Tilak that they were 'unsatisfactory and disappointing' sum up the extremist view. The reason for this attitude was that the Montford proposals came nowhere near to the demand of the Congress as put forth in the Congress League scheme ; they introduced no element of responsibility in the Centre. and conceded only partial responsibility in the provinces. The Moderates, who were convinced of the honesty and sincerity of purpose of Mr. Montagu and had arrived at some sort of understanding with him before he sailed for England, took the view that, on the whole, the reforms constituted a great advance on the then existing situation, and regarded them as progressive and satisfactory enough. They held that they should be accepted in the best interests of the country, and efforts should be made for their modification, particularly in regard to the proposals regarding the Centre. They were apprehensive lest the whole scheme should be crushed of existence between the denunciation of the Extremists on the one side, and the opposition of the Europeans on the other, who described them as revolutionary and were not prepared for conceding anything more to Indians than self-government in the local bodies. Acting on the principle of half a loaf being better than none, they decided to strengthen the hands of Mr. Montagu.

As they did not like to be a party to the wrecking tactics of the Extremists, they decided to stay way from the special session of the Congress convened at Bombay for the consideration of the Report, and organised a new party of their own. Surendranath Bannerjea, who had played a notable part in the establishment of the Indian Association of Bengal which was a forerunner of the National Congress and had paved the way for the emergence of the latter, now took the lead in organising the Moderates in Bengal and started the National Liberal League of Calcutta.

With a view to the preservation of unity within Congress ranks and carrying the Liberals with them, Tilak, Mrs. Besant and others modified their opposition to the Montford scheme. The following compromise resolution was adopted at the Bombay special session held in August 1918 :

"That this Congress entirely disagrees with the formula contained in the said Report that the Provinces are the domain in which

the earlier steps should be taken towards the progressive realization of Responsible Government, and that the authority of the Government of India in essential matters must remain indisputable pending experience of the effect of the changes proposed to be introduced in the Provinces, and the Congress is of opinion that simultaneous advance is indispensable both in the Provinces, and the Government of India."

But the Moderates abstained from attending the special session and held a special conference of their own at Bombay in November. There they passed a resolution welcoming the proposals as constituting a distinct advance on the system of Government as it then existed, both as regards the centre and the provinces, and also as a real and substantial step towards the progressive realization of responsible government in the provincial sphere. They regarded the proposals as fulfilling the terms of the announcement of August 20, 1917.

The result of the secession of the Moderates was that the Congress, which had been a body of moderate opinion since 1907, came under the control of the Extremists. At the Delhi Congress a new spirit was visible ; the whole tone of its resolutions had altered. It talked of certain fundamental rights of the Indian people which should always be observed. It also made an attempt to take the case of India before other nations, in this case the United States of America, to obtain their support for self-government. An appeal was formally put before the Foreign Relations Committee of the merican Senate that the constitution of the League of Nations should be so amended that every signatory to the Covenant of the League should be made to provide democratic institutions for the people who lived under its government. The following is a part of the resolution on self-determination which was passed by the Delhi Congress : 'In view of the pronouncements of President Wilson, Mr. Lloyd George, and other statesmen, that to ensure the future peace of the world, the principle of self-determination should be applied to all progressive nations, this Congress claims the recognition of India by the British Parliament and by the Peace Conference as one of the progressive nations to whom the principle of self-determination should be applied.' The Congress further demanded that India should be represented at the Peace Conference through the elected representatives of the people and

appointed Tilak, Gandhiji and Syed Hasan Imam to act as its accredited representatives, if and when the necessity arose.

Meanwhile, a Bill embodying the proposals of Montford Report was introduced in Parliament and after having been passed by both the Houses, it received the King's assent on December 25, 1919. It came to be known as the Government of India Act of 1919. Rules were framed under the Act in July, and elections to the legislatures held in November, 1920. The new legislatures were inaugurated in the beginning of 1921.

We shall first describe the main provisions of the Government of India Act of 1919, and next discuss its actual working. But before proceeding with the first task, a few words about the Devolution Rules made under it seem to be necessary.

Devolution Rules.— It would be recalled that the most vital feature of the Montagu-Chelmsford proposals was the introduction of partial responsible government in the provinces. This necessitated two things : (i) Demarcation of the sphere of provincial governments from that of the Centre and giving to the Provinces the largest measure of independence, legislative, administrative and financial, of the Government of India compatible with the due discharge by the latter of its own responsibilities ; and (ii) the division of the field of provincial government into two parts, one in which popular responsibility was to be introduced, and the other where administration was to be reserved to the Governor-in-Council. Both the objects were secured by means of Devolution Rules framed under the Government of India Act of 1919.

It is necessary to understand the nature and significance of devolution or decentralisation of authority which was absolutely indispensable for the introduction of partial responsibility in the provinces. For this purpose one should remember that the whole trend of British policy in India since the passing of the Act of 1773 was towards the creation of a single, powerful government for all the territories of the Company in India. The governments of the various provinces were subject to the over-riding powers of the Central Government which was directly or indirectly in supreme control. For long the finances of the provinces were controlled by the Centre ; the former had no right to levy taxes or to spend money without the previous sanction of the Central Government. Power was thus centralised to a high degree in the Governor General-

in-Council. The evil effects of this high centralisation were realised as early as the seventies of the last century when the first steps towards financial devolution were taken. Gradually the provinces were given greater freedom to collect taxes and spend money, and to administer their affairs. The Act of 1919 carried this process of devolution to its full length. Without being made politically autonomous units (this was done by the Act of 1935) the Provinces were given the largest measure of independence of the Government of India, consistently with the due discharge by the latter of its own responsibilities. This was achieved by classifying the subjects of administration into two lists, one central and the other provincial. The Central List included subjects like defence, foreign relations, railways, posts and telegraphs, coinage and currency, tariffs and customs, public debt, civil and criminal law and procedure, shipping, major ports, etc., in regard to which uniformity of legislation and administration for the whole country is desirable. The Provincial List included subjects like local self-government, education, medical administration and public health, agriculture, industries and revenue, irrigation, forests, administration of justice, police and jails, etc., which do not require uniformity of legislation, and administration, but in regard to which diversity of administration to suit the different needs of the provinces may be essential. The last item in the provincial list was the following : 'Any matter which, though falling within a central subject, is declared by the Governor General-in-Council to be of a merely local or private nature within the province.' The last item in the Central list was the following : 'All matters not included among the provincial subjects.' This means that residuary powers vested in the Governor General-in-Council.

It may be pointed out that the division of subjects into Central and Provincial was neither very rigid nor clear-cut. It was not rigid in so far as the Centre was given concurrent powers of legislation on some subjects included in the provincial list (with the previous consent of the Governor General), and a province could also legislate for persons within its territories on a central subject with the previous consent of the Governor General. It was not clear-cut in so far as there was some over-lapping of subjects in the two lists. For example, while some large heads like commerce and laws

regarding property were included in the Central List, important sections like excise and laws regarding land revenue were allotted to the provinces.*

The heads of revenue were similarly divided into central and provincial. All receipts from subjects included in the provincial list which included land revenue, irrigation, forests, excise on alcoholic liquors, stamps, registration fees, minerals, were credited to the provinces. They were also given the power to levy certain taxes specified in the Scheduled Taxes Rules, and to borrow money for certain specified purposes. But loans could be raised in India with the previous permission of the Governor General-in-Council and outside India with the permission of the Secretary of State. With the allocation of separate sources of revenues to the provinces, provincial finance was separated from the central ; the annual financial statement of 1921 introduced in the Central Legislative Assembly contained no reference to provincial budgets. This devolution was necessary to give the provinces the much needed freedom to plan, initiate and manage their affairs without too much dependence on and interference from the Centre. This should not be taken to mean that the provinces became autonomous ; this was not possible so long as the form of government remained unitary. The Act of 1919 did not modify or change the unitary character of the Government of India ; it did not contemplate anything like a federal constitution for the country. The Central Government continued to enjoy the power of making laws for all persons and places in British India even on provincial subjects ; and the Provincial Governments were required by law to pay due heed to the orders of the Government of India and to keep the latter constantly and diligently informed of their proceedings and of other important matters.

The second thing was the division of the provincial subjects into two categories, one known as *reserved* and the other as *transferred.* Subjects like local self-government, public health and sanitation, medical administration, education other than European and Anglo-Indian, public works, agriculture and fisheries, cooperative societies, excise on alcoholic liquors and drugs, development of industries, libraries, etc., which afforded 'most opportunity for local knowledge and social service', and in which Indians showed themselves to be

* Punniah - *Constitutional History of India,* page 148.

keenly interested and where mistakes would not be irremediable, were classed as *transferred*. They were to be administered by the Governor acting with his ministers. The ministers were to be responsible to the provincial legislature. Subjects like law and order, finance, land revenue, irrigation, famine relief, control of newspapers, etc., were classed as *reserved* ; they were to be administered by the Governor-in-Council who was responsible to the Governor General and through him to the Secretary of State. When any question arose whether a matter related to a reserved or to a transferred subject it was to be settled by the Governor whose decision was final.

It should be borne in mind that there was no division of financial sources of revenue corresponding to the division between the transferred and reserved subjects ; no separate sources of revenue were allocated for the administration of the transferred subjects. Neither was any separate executive staff appointed for the administration of the transferred subjects. These were serious shortcomings which had a prejudicial effect on the working of Dyarchy. But more of it in a subsequent section.

Government of India Act of 1919

Revolutionary Feature of the Act.—After this introductory survey we pass on to a study of the main provisions of the Government of India Act of 1919 which deserves a more detailed treatment than could be accorded to any one of the several Acts passed by the British Parliament for the good government of India before it. This is because it marks the beginning of a new phase in our constitutional development. As has been stressed before, it inaugurated the period characterised by the growth of responsible government. 'It crossed the line between legislative and executive authority. Previous measures had enabled Indians increasingly to control their Legislatures but not their Governments. Some Indians, it is true, had been members of those Governments, but they had been officially appointed and responsible, like their British colleagues, to the Secretary of State and Parliament. Now Indians were to govern, so to speak, on their own. They were to take charge of great departments of Provincial administration, not as official nominees but as the leaders of the elected majorities in their Legislatures and responsible to them.' †

Preamble to the Act of 1919.—In view of its historic importance

† Coupland : *India, A Restatement*, page 113.

and the fact that some of the most important features of the Act of 1919 follow from it, the Preamble deserves to be reproduced and commented upon. It runs as follws :

'Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of the Indian administration and for the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the Empire ;

'And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken ;

'And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples ;

'And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility ;

'And whereas concurrently with the gradual development of self-governing institution in Provinces in India, it is expedient to gi e these Provinces in provincial matters the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities ;

'Be it therefore enacted, etc......'

Although the Act of 1919 was superseded by the Act of 1935, the Preamble to it stood and formed part of the constitutional law of India till 1947. It is therefore necessary to dwell a little longer on it and elucidate its significance.

The first point to be noted is that it makes India an integral part of the British Empire. It does not envisage a free India outside the Empire. It is, of course, too much to expect that Parliament should consent freely to India walking out of the fold of the Empire. The fact nevertheless remains that this reluctance of Britain was incompatible with the demand of India as voiced through the National Congress and other political bodies. It is also significant to observe that the Cripps proposals did contemplate the possibility of India seceding from the Empire. Closely connected with the emphasis on perpetuating this enforced relation with the Empire is

the fact that the Preamble clearly and definitely asserts the sovereignty of the British Parliament over India and also its responsibility for her welfare and administration. The time and manner of each successive advance towards the *distant* goal of full responsible government was to be determined not by the people concerned but by Parliament, an outside authority. This feature was severely criticised by Indians as it definitely denied to them the right and the principle *self-determination* for the vindication of which the Great War of 1914–18, (and one might add, the second World War also) was ostensibly fought. It should also be noted that further advance on the road to self-government was made dependent on the co-operation of Indians and the extent to which they would demonstrate their fitness and sense of responsibility to the full satisfaction of the British Parliament.

In the third place, the Preamble lays down the two main principles of the reform scheme. The first is the introduction of partial responsibility in the provinces, and the second is the conferment on them of the largest measure of independence, legislative, administrative and financial, of the Government of India (but not the largest measure of *self-government*) consistently with the due discharge by the latter of its own responsibilities. The implication is that the Government of India must remain wholly responsible to the British Parliament. The Preamble thus makes no reference to the changes introduced by the Act in the Central Government and the Home Administration of Indian Affairs.

The Government of India

(UNDER THE ACT OF 1919)

Introductory.—Though the most vital and revolutionary change introduced by the Government of India Act of 1919 consisted in the introduction of partial responsibility in the provincial sphere, we propose to deal first with the modifications it effected in the functions, structure, and methods of the Government of India. These modifications were necessitated by the fact that the machinery of the central government was no longer equal to the needs of the times; particularly, in view of the development of responsible government in the provincial sphere. The Act made many significant alterations in the composition, powers and functions of the legislative organ. It was enlarged and made more representative and given larger

opportunities to influence the government. But the relation between it and the executive branch was left unaltered in fundamentals. It made some changes in the composition and character of the executive organ also, but they were not so important as those made in the legislative organ. Some of the difficulties of the Act arose out of its attempt to bring together a somewhat popular or democratic legislature and an irresponsible and autocratic executive.

The Central Executive.—The Act of 1919 did not make any fundamental change in the nature and composition of the executive branch of the Government of India. The executive authority continued to be vested, as before, in the Governor General-in-Council. In view of the changed relations with the provincial governments and the possibility of increased volume of work it was considered desirable to remove the statutory limit upon the membership of the Executive Council imposed by an earlier Act, the Consolidation Act of 1915. In actual practice, however, no advantage was taken of this removal, and the Executive Council for a long time consisted of six members besides the Governor General and the Commander-in-Chief. It was in 1941 that the Executive Council was expanded under pressure of events in the country. The Act also modified a previous rule about the qualifications of the Law Member and made pleaders of Indian High Courts of not less than ten years' standing eligible for appointment as Law Member. The Act did not lay down qualifications for the members of the Executive Council, except for the important proviso that at least three of them must be persons who must have served in India under the Crown for at least ten years. This proviso gave substantial representation to the Indian Civil Service in the Executive Council and went a long way in determining its character and outlook. It stood in the way of the Council being converted into a body of ministers responsible to the legislature. This provision had to be deleted when the Executive Council became something like a cabinet in 1947 and all its members were Indians with Jawahar Lal Nehru at their head.

Although there was nothing in the Act to necessitate the appointment of Indians as members of the Executive Council, the number of Indians on it was increased from one to three.* In this way the British Government tried to give effect to the policy of 'increasing association of Indians in every branch of the administra-

* This affords a good example of constitutional conventions in our country.

tion.' Their number remained three till 1941 when the Council was expanded. It should be noted that the important portfolios of Finance, Home affairs and Defence were always placed in charge of Britishers ; the relatively unimportant departments of Law, Education and Health, and Industry and Labour were entrusted to the Indian members.

Before concluding this topic it may be mentioned that the members of the Viceroy's Council were appointed by the King on the recommendation of the Secretary of State for India and held office for a period of five years. It may also be mentioned that the Commander-in-Chief no longer remained an extraordinary member ; the distinction between ordinary and extraordinary members was abolished by the Act. He also ceased to be the Vice-President of the Council.

The Governor General.—Although the executive authority of the Government of India was vested in the Governor General-in-Council, and not in the Governor General alone, and the Governor General was required by law to carry out his functions with the advice and concurrence of his Executive Council, he had become the most important and powerful member of the executive. It could be said that (he was not merely a part of a whole, but in a way, constituted the whole.) This was because (he was empowered to overrule the whole or part of his Executive Council whenever he felt convinced that the advice given by it was wrong or harmful or when in his opinion the preservation of the peace and tranquillity of the country required such a step.) The occasion for the use of such a step seldom arose ; it was not easy for an executive councillor to stand up against him—the whole atmosphere and traditions of the Council militated against a bold stand on the part of its members. (Several causes contributed to the dominating position of the Governor General. Among them the more important were his exalted position as the representative of the King, high social status, almost continuous and direct contact with the Secretary of State for India, the rules of procedure which enabled him to act in the name of the Executive Council as a whole even if he consulted one member thereof, and above all, the fact that the members of the Council usually owed their appointment to the recommendation of the Governor-General and looked up to him for further promotion as provincial governors.)

In the words of a British writer the Governor General of India occupied 'the most responsible, as it is the most picturesque and distinguished office in the overseas services of the British Crown.' Few posts in the world carried the dignity, patronage, powers and emoluments associated with this office. He was appointed by His Majesty, the King of Great Britain, on the advice of his Prime Minister. His tenure was usually five years. His salary was Rs. 2,56,000 a year, and the country was required to spend another sum of about fourteen lakhs of rupees annually on him.

His powers were numerous and of a varied character ; they could be classified under three heads, administrative, legislative and financial. Together with his Executive Council he was entrusted with the task of administering the civil and military affairs of the Government of India and preserving peace and order in the country. As the President of his Executive Council he distributed work among its various members and made rules and regulations for transacting its business. He summoned its meetings at such places as he liked. He had vast patronage in his hands ; the members of the Executive Council were appointed by the Secretary of State usually on his recommendation, and they looked to him for recommendation for appointment as provincial governors. He summoned, prorogued and dissolved the central legislature, and could also extend its term under special circumstances. He had the power to stop the proceedings of any chamber on any bill or clause of a bill, if he thought that discussion on it would have a prejudicial effect on the peace and tranquillity of the empire. He could disallow certain questions from being asked in the legislature. In the financial sphere all demands for grants and all proposals for taxation could be placed before the legislature only with his recommendation, and he could also restore any grant or tax refused or reduced by the legislature. In the legislative sphere he was given the power of putting on the statute book any bill rejected by the legislature if he thought that the bill was essential for the safety, tranquillity or interests of British India. This was known as the power of Certification, and it was used by him on several occasions. He was also given the power of issuing Ordinances for the peace and good government of the country. Of course, he had the power to assent to or withhold assent from any bill passed by the legislature,—a power usually vested

in the chief executive in every state. It is not necessary to go into details ; all that the student should bear in mind is that the Governor General of British India was not a constitutional ruler, but had real, effective governing authority and power. It may be added that as the Viceroy (as the representative of the King in India) he had the power to grant pardon to persons convicted by courts of law and bestow honours and decorations on persons.

It is interesting to note that the Governor General-in-Council enjoyed no such powers of restoring cuts, certifying bills and promulgating ordinances under the Morley-Minto Reforms ; he was armed with them by the Act of 1919 for the first time. There was no necessity for them under the older set-up ; the Governor General could secure whatever he wanted from the legislature, as he had a secure majority in it. The Act of 1919 made a fundamental difference in the situation. The Legislative Assembly had a large elected majority ; it was not expected to oblige the Government by toeing its line always. Since the Governor General-in-Council was responsible to the Secretary of State and not to the people of India, he had to be equipped with the power to carry out the orders and insructions of the Secretary of State and put on the statute book whatever laws he deemed necessary for the due discharge of his responsibilities. It should never be forgotten that it was not the intention of the Act of 1919 to make the Government of India responsible to the legislature even to the smallest extent. All that it sought to achieve was to put the legislature with a large elected majority in a position to *influence* the Government (as distinguished from controlling it).

Relaxation of Central Control.— It should be remembered that the Government of India was a highly centralised government ; it exercised a great and rigid control over the provincial governments in administration, finance and legislation. It was charged with the duty of exercising superintendence, direction and control over them. As has been pointed out in the section on Devolution, this power of superintendence, direction and control had to be relaxed a good deal, if partial responsibility was to be introduced in the provincial sphere. As was observed in the Montagu-Chelmsford Report, the provinces had first to be emancipated from the control of the Central Government before partial responsibility could be introduced. As has been explained earlier, this was achieved by (i) demarcating

a number of subjects as *provincial* and giving the provincial government a large measure of freedom in administering them, (ii) separating provincial finance from central and allocating separate heads of revenue to the provincial governments, and (iii) distinguishing between transferred and reserved subjects in the provincial sphere and making the ministers responsible to the provincial legislature for the administration of the transferred subjects. The Instrument of Instructions issued to the Governor General directed him to exercise his powers of superintendence, direction and control over the provincial governments with a wiew to furthering their policies when such policies found favour with a majority of the members of the provincial legislature The power of superintendence, ete., could be exercised over the administration of the transferred subjects only for the purpose of (i) safeguarding the administration of a central subject, (ii) safeguarding the interests of All-India Services, and (iii) setling disputes between provinces when they had failed to agree among themselves.

The Governor General and the Secretary of State.—For a proper understanding of the true character of the Governor General-in-Council as the highest executive authority in British India, a few words about the relationship between him and the Secretary of State for India-in-Council seem to be indispensable.

(It had long been recognised that the ultimate authority to direct and control the affairs of the British territories in India was the Secretary of State for India-in-Council.) The Government of India was subordinate to His Majesty's Government in Great Britain. (When responsibility for the administration of Indian affairs was transferred from the Company to the Crown in 1858, the Secretary of State for India was set up as the Minister responsible for Indian affairs. He was vested with the authority to 'superintend, direct and control all acts, operations and concerns which relate to the Government or revenues of India.' In her Proclamation Queen Victoria directed the Governor General of India to be subject to all such orders and regulations as he might receive from time to time from the Secretary of State for India. The Act of 1919 did not make any change in this relationship ; it left the powers of the Secretary of State to superintend, direct and control all acts, operations and concerns which relate to the Government or revenues of India theoretically unchanged and unimpaired. Constitutionally

the Governor General-in-Council was subordinate to the Secretary of State and bound to obey all the orders the latter might issue. In case of difference of opinion between him and the Secretary of State, the Governor General had either to accept the views of the latter or resign. Many a Secretary of State proceeded on the theory that the Government of India were the agents of the Imperial Government in Great Britain.

In practice, however, it was impossible for the Secretary of State to administer the affairs of India from such a long distance. He was therefore driven to leave large powers and responsibilities to the Government of India. A powerful and influential Viceroy could sometimes make the Secretary of State the convenient mouthpiece of his policy in England. Even a man like Lord Morley was driven to accept the principle of separate representation for the Mohammedans because of the insistence of the Government of India. All things considered, one cannot but accept the following statement of Sir Tej Bahadur Sapru, an ex-Law Member of the Government of India, as a correct and adequate account of the relationship between the Government of India and the Secretary of State : 'The residium of control, both administrative and financial, exercised by the Secretary of State in relation to the Government is so enormously large that it is impossible to hold, constitutionally, that the Government of India enjoys any large measure of independence.'

The Secretary of State exercised control over the Government of India in several ways, visible and invisible. The invisible methods which were not always known to and understood by the outside world included private and confidential communications which the Governor General did not always disclose to the members of his Council. That all projects of legislation should have had the previous assent of the Secretary of State and that all variations in taxation and all measures affecting the revenues of the country should be similarly placed before him, and other requirements of a similar nature constituted the direct and visible method by which he controlled and directed the Government of India.

Such a control made the position of the Government of India awkward in their relation to the Central Legislature which contained a very large majority of elected non-official members. It often brought them into direct conflict with the legislature which could and sometimes did reject the measures introduced by the Govern-

ment. The theory of the subordination of the Indian Government to the Secretary of State might have been necessary at a stage when the Legislative Councils were mere advisory bodies with official majorities ; it was certainly incompatible with the existence of a legislature with an elected majority and an area of work which was large enough to make the position of the Government difficult. It resulted in the rejection of important measures like the Finance Bill and their subsequent certification by the Governor General.

The Central Legislature.—The Act of 1919 made several important alterations in the constitution, composition and powers of the Indian legislatures, central and provincial. Here we shall deal with the central legislature only.

The Central Legislature was made bicameral. In place of the old Supreme Legislative Council two legislative chambers were brought into existence ; the lower and more democratic body was styled the Legislative Assembly and the upper and oligarchic body was known as the Council of State. This was a radical change. The second chamber was introduced to act as a check upon the lower house which was to contain a definite elected majority of not less than five-sevenths. In the second place, the size of the legislature was considerably enlarged. The Legislative Assembly was to consist of 140 members with the provision for increasing the number of its members by means of rules ; and the Council of State was to contain not more than sixty members. Actually the Assembly contained 145 members. The central legislature thus came to contain 205 persons in place of the sixty-eight members of the Supreme Legislative Council as constituted under the Act of 1909. In the third place, the Governor General ceased to be the presiding officer of the legislature and therefore its member also. But he continued to be its integral part. It should be borne in mind that according to the Act of 1919 the Central Legislature consisted of the Governor General and the two chambers as named above. In the fourth place, the old idea of having an official majority in the central legislature was given up. For the first time, an elected majority was introduced in it. Even the Council of State was given an elected majority. Lastly, large financial and deliberative powers were conceded to it in order to make the Government of India more susceptible to the force of public opinion, but without introducing the principle of responsible government. In short, we may state

that with the idea of making the executive more liable to be influenced by popular sentiment and increasing the indirect influence of the legislature, the legislative machinery was completely overhauled. (It was considerably enlarged and democratised, and larger powers were granted to it.)

It is not necessary to go into details about the composition of the Legislative Assembly and the Council of State. Only this much may be stated that (the elected seats were distributed among the various provinces, and further in each province among the various communities and interests. In other words, the principle of Separate Communal Representation was observed in their composition as far as the Muslims, the Sikhs and the Europeans were concerned. Special constituencies were created for Landlords and Indian Commerce. Depressed Classes, Anglo-Indians, Indian Christians, and Labour were given representation through nomination. The franchise for the Assembly was based on property qualifications which were not uniform throughout the country. They varied from province to province, and sometimes in the same province according to the wealth of the people in different regions.) Speaking generally, a person who was assessed to pay income-tax, or paid land revenue or rent above a certain minimum, or municipal tax above a fixed minimum was entitled to get his name registered as a voter. (The tenure of the Assembly was fixed at three years. The Governor General could dissolve it earlier and could also extend its term. The Assembly was given the right to elect its own presiding officer subject to the approval of the Governor General) after the expiry of the first four years during which it had a President appointed by the Governor General.

(The Council of State was less democratic and more oligarchic than the Assembly. It also had an elected majority, but the proportion of the elected to the nominated members was much smaller in it than in the Assembly. For a long time its President was appointed by the Governor General and used to be an official. At a later stage it was given the power to elect its own President. The franchise for it was much higher than that for the Assembly. In some provinces persons paying income-tax on an income of not less than Rs. 30,000/- per year, or paying land revenue of not less than Rs. 2,000/- a year could become voters. In others, the corresponding figures were lower. In the election of 1925 the total number of voters for the Council of State was about 17,000 in the whole of British

India. Women were not eligible for becoming its members or voters.

Powers of the Legislature.—It is not necessary to describe the powers of the Central Legislature under the Act of 1919 in any detail; only some general observations will be made.

The first thing to remember is that the powers of the Central Legislature were restricted in several ways ; it was not a sovereign law-making body. It could not after, amend or repeal the constitution of the country ; this right belonged exclusively to the British Parliament. It could not make any law which might affect the powers of the Secretary of State to raise money on behalf of the Government of India, or which might empower any court other than a High Court to sentence to death any of His Majesty's subjects born in Europe or the children of such persons. There wers many other subjects on which it could not legislate. But it had the right to make laws for all things and persons, places and courts in British India and for all subjects of the Crown on subjects mentioned in the Central List. It could also legislate upon certain provincial subjects like irrigation, factory and labour legislation. It had concurrent jurisdiction over the provincial field also.

The second thing to remember about its powers is that, except as regards financial matters, the two houses had equal and concurrent powers. No bill could be presented to the Governor General for his assent unless it was passed by both the houses in the same form. A bill passed by one house and rejected by the other, or passed by it with such amendments as were not acceptable to the first house could not be presented to the Governor General, unless he exercised his powers of certification. The Governor General could refuse his assent to any bill passed by both the houses. He could also reserve a bill for His Majesty's pleasure.

Thirdly, the annual estimates of expenditure were simultaneously placed before the houses for general discussion. But the right of voting supplies was the exclusive privilege of the Assembly ; the various demands for grants were not placed before the Council for assent. It is also worth remembering that a very large part of the budget was non-votable ; the Assembly could discuss items like the salary and allowances for the Governor General monies required for the foreign and political department, expenditure on defence, public debt, etc., which accounted for about 75% of the total budget, with the previous consent of the Governor General, but could not vote on

them.) Any demand for grant refused or reduced by the Assembly could be restored by the Governor General if he thought it necessary for the discharge of his duties. (The Assembly had ~~thus~~ no real and effective control over expenditure; its restricted powers were further circumscribed by the power of veto possessed by the Governor General.) This was because it was no part of the intention of the framers of the Act to introduce any measure of responsible government in the Centre. (The Assembly was given some opportunities to *influence* the executive but had no power to control it. The Assembly was also given the right to discuss and vote on the Finance Bill. After having been passed by the Assembly the Finance Bill was sent to the Council for discussion and voting. Both the houses could reduce or refuse taxation proposals subject to the power of veto possessed by the Governor General. On several occasions the Assembly rejected the Finance Bill and the Governor General had to certify it.)

(In free and self-governing countries like Great Britain and France the legislature is given the power to supervise and control administration in several ways ; *e. g.*, through control over the purse, resolutions, motions of adjournment, interpellations, etc. The Indian Legislature had no real control over the purse ; it could not dismiss the executive or compel it to accept its wishes in any matter. All it could do was to put questions, move motions of adjournment and pass resolutions. But this right did not possess much significance. A successful motion of adjournment or even of no-confidence did not mean the resignation of the executive, and a resolution passed by the Assembly or the Council was only a recommendation to the executive which it could accept or ignore at its sweet will. Thus the Central Legislature had no control over the executive ; all it could do was to exercise some influence over it.)

Conflict between the Two Houses.—Under the bicameral system there is the possibility of conflict between the two houses, specially where they are given equal and concurrent powers. Constitutions usually provide for methods of solving such conflicts. The Act of 1919 provided for three different modes of removing differences between the Assembly and the Council. They were Joint Committees, Joint Conferences and Joint Sittings. A Joint Committee was intended more for the prevention of differences between them than for solving them when they arose ; it could anticipate differences and try to

remove them. When there arose a difference between the two chambers, they could agree to a Joint Conference consisting of an equal number of representatives from each to solve it. A Joint Sitting of the two houses could be convened only by the Governor General by notification in the Gazette. Certification by the Governor General was another way of saving a bill from lapsing on account of unreconciled difference between the two chambers. This method was resorted to when the executive was keenly interested in passing a bill. The Princes' Protection Bill was rejected by the Assembly but passed by the Council of State. The Governor General certified it and it was thus placed on the statute book.

The Position till 1947.—As the federal portion of the Government of India Act of 1935 did not come into force, the composition of the central executive and legislature was governed by the Act of 1919 till the passing of the Indian Independence Act of 1947. The powers of the Executive in relation to the administration of Indian affairs remained the same as before, but its power to superintend and control the provincial governments had to be withdrawn in view of the introduction of provincial autonomy under the Act of 1935. To the extent and in the spheres in which control in the provinces was transferred to the people, the government of a province could not be made subject to the authority of the Government of India.

In a subsequent chapter reference will be made to the fact that by way of meeting the demand of the Indian people for the establishment of a *national* government in the country, the British Government expanded the Executive Council. Till 1941 it consisted of eight members of whom three used to be Indians. In October 1941 its strength was increased to thirteen of whom eight were Indians. In 1945 the strength was further increased to sixteen with eleven Indians. But the five most vital and important departments were still held by Britishers ; they were the Foreign and Political Department, the Army and Defence Department, the Home Department, the Finance Department, and the Railways. It was only when a national government was established in terms of the Cabinet Mission Plan in 1946 that the Executive Council became wholly Indian and the Governor General became something like a constitutional chief executive. He became an entirely constitutional head only after the passing of the Independence of India Act in 1947.

The Relation between the Executive and the Legislature.—

Although the main points in regard to the relation between the executive and legislative organs of the Government of India have been made plain enough in the course of the preceding discussion, the importance of the subject justifies a separate section even at the cost of a little repetition.

It should always be borne in mind that it was never the intention of the authors of the Montford Reform Proposals to concede even an iota of responsibility at the Centre. The Act of 1919 therefore kept the Government of India wholly responsible to the Secretary of State. It meant that its authority in essential matters was to be kept indisputable. Therefore the Governor General was armed with the power of restoring taxes and grants reduced or refused by the legislature, certifying bills rejected by it, and promulgating ordinances. Resolutions passed by the legislature were mere recommendations which the executive might or might not accept. A successful motion of adjournment passed by the Assembly or the throwing ont of an important government measure did not entail the resignation of the executive. The legislature was thus not in a position to *control* the executive. The latter was irremovable by it. All that the legislature could do was to *influence* the executive. The intention of Mr. Montagu was to make the Government of India *responsive* to the legislature, but not *responsible* to it. The Act therefore enlarged the Legislature, made it more respresentative of the people and increased its powers without giving it the right to control the executive.

Provincial Government

Introductory.—In so far as according to the authors of the Report on Indian Constitutional Reforms the Provinces were to be the domain in which the earlier steps towards the progressive realisation of responsible government were to be taken and the Government of India were to remain wholly responsible to Parliament, the changes introduced by the Government of India Act of 1919 in the constitution of the provincial governments were far more vital and radical than those introduced in the constitution of the Central Government. We shall therefore deal with them more fully and at greater length than was found necessary in our account of the Central Government.

It should be remembered always that the Act of 1919 was not designed to introduce full responsible government in the

provinces all at once. Its growth was to be gradual ; only the first steps in that direction were to be taken. This object was secured through the establishment of a novel type of government known as *Dyarchy.* It was established in the nine Governor's provinces ; namely, Bengal, Bombay, Madras, Bihar and Orissa, the United Provinces, the Central Provinces, the Punjab, Assam and Burma. What were known as Chief Commissioners' Provinces were excluded from its scope. It was later introduced in the N. W. F. P. This meant that the old distinction between Governors' Provinces and Lieutenant Governors' Provinces was abolished. The Act of 1935 abolished Dyarchy and established full responsible government in the provinces, limited though it was by the special powers and responsibilities of the Governor.

Meaning of Dyarchy.—Dyarchy is a compound of two Greek words, *di* meaning two, and *archia* meaning rule. It thus signifies double government or government by two rulers. As a system of administration introduced in the provinces by the Act of 1919 it meant the division of the sphere of government into two distinct and separate parts, each administered by a different set of individuals appointed in different ways and bearing different relations to the legislature and to the Governor.

The Provincial subjects were distinguished into two parts. One part comprised subjects like local self-government, education other than European and Anglo-Indian, public health and sanitation, hospitals, dispensaries and asylums, development of industries, agriculture and fisheries, and co-operative societies in which there was greater scope for social service and which required a greater degree of local knowledge. These were known as *transferred* subjects and were to be administered by the Governor acting with his ministers who were responsible to the provincial legislature. The other group comprised subjects like land revenue, famine relief, irrigation forests, administration of justice, police, jails, finance, factories and labour problems. They were known as *reserved* subjeets and were to be admininistered by the Governor with the help of executive councillors who were not responsible to the provincial legislature. In other words, the provincial executive consisted of two halves, (i) Governor acting with his ministers, and (ii) Governor acting with his executive councillors. In their manner of appointment, tenure of office, and constitutional relation to the Governor

and the provincial legislature the ministers and the councillors differed widely from each other. We shall first describe the method of appointment, tenure, etc, of the ministers, next that of the councillors, and finally say a few words about the role of the Governor in the administration of the province.

The Ministers.—They were entrusted with the administration of the transferred subjects in each province. The Act did not put any maximum or minimum limit on their number as it did regarding the number of councillors. In practice, there were three ministers in some provinces, *e.g.*, Bengal, and two in others. They were appointed by the Governor and held office during his pleasure. No official could be appointed as a minister, and no person could remain a minister for more than six months, unless he became a member of the provincial legislative council. In other words, though it was open to the Governor to appoint a person as a minister who was not a member of the legislature, such a person who bound to vacate office if he failed to find a seat for himself in the legislature within six montns. As a matter of fact, however, the Governors chose their ministers from amongst the leading elected members of the legislative councils. In so far as they were responsible to the provincial legislative council and their salaries were subject to its vote their tenure practically depended upon the will of the legislature. According to the letter of the law, however, they held office during the pleasure of the Governor. Nevertheless, no Governor could have retained a minister in office in whom the Legislative Council showed clear want of confidence. In the U. P. the Governor had to dismiss, much against his wishes, a minister against whom a vote of no-confidence was passed by the casting vote of the President of the Legislative Council. This showes that the parliamentary form of government had been established so for as the transferred subjects were concerned.

Under the parliamentary type of government the head of the State has only nominal powers ; even if he differs from the advice given to him by his popular ministers, he has to accept it. The only other alternative is to accept the resignation of the ministry. The Report on Indian Constitutional Reforms, however, did not contemplate that from the outset 'the Governor should occupy the position of a purely constitutional head who is bound to accept the decisions of his ministers. Our hope and intention

is that the ministers will gladly avail themselves of the Governor's trained advice upon administrative questions, while on his part he will be willing to meet their wishes to the furthest possible extent in cases where he realizes that they have the support of popular opinion. We reserve to him a power of control, because we regard him as generally responsible for his administration, but we should except him to refuse assent to the proposals of his ministers only when the consequences of acquiescence would clearly be serious......But we do not intend that he should be in a position to refuse assent at discretion to all his ministers' proposals.'* In short, the Governor was expected to accept the advice given to him by his ministers, unless he saw sufficient reason to dissent from their opinion, in which case he could require action to be taken 'otherwise than in accordance with that advice'. In case the Governor refused to accept the advice of his minister, the latter had the option to resign ; and the Governor, too, had the right to dismiss a minister with whose views he did not generally agree or who had lost the confidence of the legislature.

The Instrument of Instructions issued to the Governor contained directions as to the manner in which he was to deal with his popular ministers. It directed him to have due regard to the ministers' relations with the Legislative Council and to the wishes of the people of the province as expressed by their representatives in considering whether or not to accept their advice. He could override the advice if such a course was demanded by considerations of the safety and tranquillity of the province, advancement and social walfare of backward people or minorities, the interests of the public services, and for preventing religious or racial conflicts. He was also required to see that all orders issued by the Secretary of State or the Governor General-in-Council were duly complied with.

Joint Ministerial Responsibility.—Since collective responsibility of the ministers is a very important feature of the parliamentary system of government, it is necessary to examine how far the Reforms of 1919 introduced this principle in the provincial sphere. The authors of the Report accepted this principle and maintained that the final decision on a transferred subject was to be taken after general discussion by the Governor and his *ministers*. The use of

* **Report on Indian Constitutional Reforms, page 142.**

the term ministers in the plural clearly implied the encouragement of the principle of joint or collective responsibility. The Government of India also favoured the same view in their first Despatch. The Joint Select Committee also held the view that the ministers should act from the outset on the principle of joint responsibility. But in the Instrument of Instructions and in the Devolution Rules, the term minister in the singular was used. It may be concluded that though the framers of the constitution clearly intended that the ministers should act on the principle of joint responsibility, the observance of the principle was not made binding ; it was left to develop as a convention. Unfortunately, it did not develop along those lines. The Governors found it convenient and useful from the point of view of concentrating power in their own hands to deal with the ministers separately.

The Executive Councillors.—The administration of the reserved subjects was entrusted to the Governor acting with executive councillors whose number was not to exceed four. It was only in the three Presidencies that four councillors were appointed ; in the other six provinces their number was two. Half of them were non-official Indians and half European members of the Civil Service. The principle of 'increasing association of Indians in every branch of government' was thus given effect to in the composition of the provincial executive councils also. All the executive councillors were appointed by the Crown on the recommendation of the Secretary of State for a five-year term. Their salaries were fixed by the Act and were not subject to the vote of the provincial legislature as were those of the ministers. They were *ex-officio* members of the legislature but were not responsible to it. Their responsibility lay to the Secretary of State. The Governor presided over the meetings of the Executive Council where questions were decided by a majority of votes in cases of difference of opinion. The Governor could, however, override the majority decision and order action as his own judgment directed whenever he left that the majority decision was wrong or fraught with grave danger to the safety, peace and tranquillity of the province or where his special responsibilities were involved.

The Relation between the Two Halves.—Inspite of the fact that the ministers and the executive councillors differed greatly in the manner of their appointment, tenure of office and relation to the

legislature, it was the intention of Mr. Montagu and Lord Chelmsford that the two halves of the provincial government should act as *one* Government. 'It is highly desirable that the executive should cultivate the habit of associated deliberation and essential that it should present a united front to the outside. We would therefore suggest that, as a general rule, it should deliberate as a whole.' The Devolution Rules provided that matters like allocation of funds between the two parts of government, proposals for levying taxes and borrowing money which substantially affect the administration of both reserved and transferred subjects should be discussed by the Governor with his councillors and members. If the Governor wished to discuss a particular matter with either the ministers alone or with the executive councillors alone, he could call a meeting of the half of the executive concerned. At meetings of the whole Government there was no question of arriving at decisions by majority of votes; the responsibility for decisions concerning the transferred subjects was that of the Governor acting with his ministers, and for those affecting the reserved subjects that of the Governor acting with his councillors. What the Report recommended was *joint deliberation* but not *joint decision.* The decision on each question was to be taken by the part of the government concerned. The Instrument of Instructions directed the Governor to encourage the habit of joint deliberation between himself, his councillors and his ministers. This would have placed the trained advice and experience of the councillors at the disposal of the ministers and the wishes of the people as expressed through the ministers before the councillors. But as shall be shown in the sequel neither the principle of joint responsibility nor that of joint deliberation was very much observed after the first two years of the working of the reformed constitution.

The Governor.—From the above, it would have become clear that the Governor was expected to play a very vital role in the new set up. He was to function as the connecting link between the responsible ministers and the irresponsible executive councillors, between popular or self-government and autocracy. Where it was not clear whether a matter came within the jurisdiction of the ministers or that of the executive councillors, it was for the Governor to act as an informal arbitrator. It was 'his duty to see that the decision arrived at on one side of the Government is followed by

such consequential action on the other side as may be necessary to make the policy effective and homogeneous.' His position was thus one of great responsibility and difficulty, and also of great opportunity. He was to hold the 'balance between divergent policies and different ideals, and, to prevent discord and friction.'

The Governor could take over the administration of one or more transferred subjects in an emergency. If a minister resigned and a successor was not immediately available, the Governor could take over charge of the subjects temporarily till a new minister was appointed. If it became clear that the administration of the transferred subjects could not be carried on according to the provisions of the Act, the Governor General-in-Council with the previous sanction of the Secretary of State-in-Council could suspend the operation of the Act for as along as necessary, and the transferred subjects were to be administered like the reserved subjects. This happened in Bengal and the Central Provinces as a result of the tactics employed by the Swarajists.

It is not necessary to describe the mode of appointment of the Governor, his tenure, salary and allowances and other powers as the executive head of the Province.

The Legislature.—The Act of 1919 introduced several important and far-reaching changes in the composition, powers and functions of the provincial legislatures. The authors of the Montford Report had proposed that there should be 'in each province an enlarged legislative council. differing in size and composition from province to province, with a substantial elected majority, elected by direct election on a broad franchise, with such communal and special representation as may be necessary.' They wisely refrained from indicating the composition of each Legislative Council and laying down the franchise. All such questions were left to be determined by a special committee to be appointed for the purpose. The franchise, the representation to the different interests and other questions pertaining to elections were settled by the Franchise Committee. The authors of the Report contented themselves with recommending that the system of indirect elections should be swept away and that limitations on franchise should be determined not on any *a priori* considerations but in relation to the actual conditions of the people. They thought that franchise might vary from province to province, and even from one part of a province to another. They warned against any sudden

expansion of the franchise which might lead to breakdown of the machinery through sheer weight of numbers. They also examined the question of communal representation, and ; after having declared it to be anti-democratic, and opposed to the teaching of history, they regretted that the system of separate representation had to be retained for the Muslims in provinces where they were in a minority. They also extended its operation to the Siks, but denied it to Europeans, Anglo-Indians, etc., on the ground that, any 'general extension of the communal system would only encourage still further demands and would be......fatal to that representation upon the national basis on which alone a system of responsible government can possibly be rooted.' They recommended that the representation of minorities could be easily secured by means of nomination. The Franchise Committee, however, recommended the extension of the system of separate communal representation to Indian Christians, Europeans and Anglo-Indians Seats were reserved for the Non-Brahmins in Madras and the Maharathas in Bombay in plural member constituencies. It may be mentioned that the Franchise Committee enfranchised only about one-tenth of the adult population of the country and did not extend the right to vote to women. The provincial Legislative Councils were empowered to legislate for giving the right to women. This right was made use of and women were soon enfranchised, though not more than one percent of the adult female population were given the right to vote anywhere. It is not necessary to describe the composition of the Legislative Council of every province. All of them were constituted on the same pattern. Each contained members belonging to three distinct categories : (i) elected non-officials who constituted not less than 70% of its total strength ; (ii) nominated officials who could not be more than 20% ; and (iii) a few nominated non-officials to give representation to certain classes and interests which could not be expected to secure representation by direct election on account of their small numbers, backwardness or unorganised condition. The elected seats were devided into General or Non-Mohammedan, Mohammedan, Sikh, Anglo-Indian, Indian, Christian, and European seats. The U. P. Legislative Council consisted of 125 members arranged into the different categories as noted below : Executive Councillors and other nominated officials : 17 ; nominated non-officials : 6 ; elected Non-Mohammedan members : 60 ; elected Mohammedans : 29 ; elected

European : 1 ; elected Landlords : 6 ; University Representatives : 1 ; Commerce and Industry : 3. The last three constituencies were special constituencies. It would be noted that no seats were reserved for the Sikhs, Anglo-Indians, and the Indian Christians in the U. P. Their numerical strength did not warrant reservation of seats for them. Sikhs were given separate representation only in the Punjab where they formed a strong and powerful minority ; the Indian Christians in Madras, and the Anglo-Indians in Madras and Bengal were also given separate representation.

It is not necessary to describe the electoral qualifications laid down by the Franchise Committee and accepted by the Government. No question of principle is involved. We would pass on to an account of the powers and functions of the Provincial Legislative Councils, and their tenure, etc.

The Legislative Councils were constituted for a three year term ; they could, however, be dissolved by the Governor before the expiry of the full term. The Governor could also extend the life of a Council in special circumstances for not more than one year. The Governor ceased to be a member of the Council, but had the right to address it. The President of the Council was appointed by the Governor for the first four years ; thereafter, he was elected by the Council from amongst its own members, subject to the approval of the Governor. A Governor-appointed President was deemed necessary for setting up high standards of decorum and efficiency in the conduct of business.

The Provincial Legislative Council had the power to make laws for the peace and good government of the province on subjects included in the provincial list. Pills on certain subjects could not be introduced without the previous consent of the Governor General. Bills passed by it required the assent of the Governor before they could be placed on the statute book. The Governor could refuse his assent to a bill and return it for reconsideration by the provincial Council. Bills passed by the Legislative Council and assented to by the Governor were not valid unless they received the assent of the Governor General. In other words, the Governor General was given some control over provincial legislation.

The Provincial Legislative Councils were given greater control over provincial administration through the power of putting interpellations, moving motions of adjournment, passing resolutions

and the power of voting supplies. But they could exercise control only over the administration of the *transferred* subjects and not over that of the reserved subjects. It should always be remembered that for the administration of the reserved subjects, the Governor acting with his executive councillors was responsible to the Governor General and through him to the Secretary of State. This division of responsibility and the consequent limitation upon the control of the Legislative Councils over the provincial administration were evident from many provisions relating to their financial and legislative powers. If a Council failed to pass a bill relating to a reserved subject in the form in which it was recommended by the Governor, the Governor could *certify* that the passage of the bill in the form recommended by him was essential for the discharge of his responsibility for the administration of the reserved subject, and upon such certification it would become law. The Governor had no such power of certification in relation to bills pertaining to transferred subjects. A bill *certified* by the Governor had to be communicated to the Governor General and to the Secretary of State who was to lay it before both the Houses of Parliament for at least eight days before it could be presented to the King for his assent. In other words, the ultimate authority in regard to reserved subjects was the British Parliament, and not the Provincial Legislative Council. The Governor had the power to stop discussion on any bill or clause of a bill or amendment thereto, if he thought that such discussion had an adverse effect on the peace and tranquillity of the province.

As has been pointed out earlier, the provincial budget was separated from the Central budget, and separate heads of revenue assigned to the provinces and to the centre. The main heads of provincial revenue were receipts accruing from provincial subjects, the proceeds from taxes imposed by the provincial Legislative Council, and a share in the income-tax collected within the province. It was the duty of the Governor to get an estimate of the income and expenditure for the following year prepared and submitted before the legislature. The items of expenditure were divided into votable and non-votable. Contributions to the Central Government, interest on loans and sinking fund charges, expenditure to amouut of which was prescribed by law, salaries and pensons of persons appointed by or with the approval of the Crown or by the Secretary of State for India, and the salaries of the judges of the High Court and the

Advocate General were charges upon the provincial revenues : *i. e.*, they were not subject to the vote of the Legislative Council. All other items of expenditure came up before the Legislative Council in the form of demands for grants and could be accepted, reduced or refused by it. It could not increase any demand or transfer it to some other head. If the Council refused or reduced a grant relating to a reserved subject, the Governor could *restore* the rejected or reduced grant, if he thought that the demand was essential for the discharge of his responsibility for the administration of the reserved subject. He had no similar power of restoring a grant refused or reduced by the legislature if it related to a transferred subject. In case of emergency, however, he had the power to authorise expenditure on any department, reserved or transferred, if he deemed it necessary for the peace and tranquillity of the province or any part thereof.

From the preceding account it would be evident that the provincial Legislative Council was given control over the administration of the transferred subjects ; all it could do was to *influence* the administration of the reserved subjects. Resolutions passed by it were binding in case they relate to the transferred subjects, but were mere recommendations if they pertained to the reserved half. We shall take up the question of the working of Dyarchy in a subsequent section of this chapter. Meanwhile a few words about the changes introduced by the Act of 1919 in what was known as Home Administration of Indian Affairs may be added.

Home Administration

Introductory.—In a previous chapter we have shown how the British Parliament began to exercise control over the affairs of the East India Company in India and its officials in England through the Board of Control. When the Crown assumed direct responsibility for the administration of India in 1858 and the East India Company was abolished, a new post was created in England, that of the Secretary of State for India. To him were transferred all the powers and functions previously exercised by the Court of Directors and the Board of Control. A body called the India Council was set up to assist and advise the Secretary of State for India. The Secretary of State-in Council thus constituted the controlling authority in England, and came to be known as the Home Government of India.

The Secretary of State for India was invariably a member of the British Cabinet, and as immediate agent of the British Parliament was responsible to it for the administration of Indian affairs. It was through him that the British Parliament maintained control over the Government of India and kept itself informed of the way in which the affairs of this big country were managed. As has been stated above he inherited all the powers previously exercised in relation to the Government of India by the Court of Directors and the Board of Control. The Act of 1919 left his powers over the Government of India theoretically unchanged and unimpaired. It vested in him the power 'to superintend, direct and control all acts, operations and concerns which related to the Government or revenues of this country. The Governor General and through him the Provincial Governors were required to pay due obedience to his orders. All legislative projects of the Central and Provincial Governments needed his approval. All variations in taxation, all measures affecting revenues, customs, currency and exchange, and all proposals involving fresh expenditure and change of policy had to be laid before him. No payments out of Indian revenues in the shape of salaries, etc., could be paid without his sanction. The Home Charges amounting to about one-fifth of the total expenditure of the Government of India were under his control. The recruitment of the Public Services and the management of the Departments of the Government of India in England were also under his control. It was on his advice that the Crown made appointments in India, excepting that of the Governor General. It is true that in the exercise of his various functions he had to carry a majority of the India Council with him ; nevertheless, his powers over the Government of India were vast ; nothing of importance could be done by the latter against his wishes.

But since the Government of India Act of 1919 provided for the partial transfer of political power to the people in the provincial sphere and made the popular half of the provincial executive responsible to the provincial legislature, and since such responsibility was incompatible with the control of the Secretary of State and responsibility to the British Parliament, the Act empowered the Secretary of State to make rules to restrict the exercise of his power to superintend, direct and control to the extent it may be necessary

in order to give effect to the purposes of the Act, *i. e.*, mainly in regard to the administration of the transferred subjects.

The rules thus made by the Secretary of State restricted his control over the transferred subjects for the following purposes only:

(*a*) To safeguard the administration of central subjects.

(*b*) To decide questions between provinces which they had failed to settle.

(*c*) To safeguard imperial interests.

(*d*) To safeguard the due exercise and performance of certain powers and duties imposed upon the Governor General-in-Council by the Act.

(*e*) To safeguard the exercise of his own powers regarding the High Commissioner, the Services, and borrowing.

In regard to the administration of the reserved subjects in the provinces and the central subjects there could be no question of similar relaxation of the control of the Secretary of State. But the presence of large elected majorities in the central and provincial legislatures was incompatible with the rigid control till then exercised by the Secretary of State over the Government of India and the provincial governments. It was therefore found desirable to give the Government of India and the Governors-in-Council greater discretion than before. With this end in view and in accordance with the observations of the authors of the Report that certain matters which were till then referred to the Home Government for sanction might in future be referred merely for the information of the Secretary of State, the Secretary of State delegated some of his powers to the Governor General-in-Council. 'Thus, whereas before 1919 all projects of legislation before introduction into the Central or a Provincial legislature had to be referred to the Secretary of State for approval, now only certain classes of bills were so referred before introduction into the Central Legislature.........while provincial bills were not so referred at all except in such rare cases as those in which the Governor General might decide to refuse statutory previous sanction to any of them.' * Similar relaxation of control was made in the financial sphere. Nevertheless, the Government of India complained that the control exercised by the Secretary of State-in-Council over the Central and Provincial Governments in certain financial matters and in matters pertaining to Public Services was very great.

* Punniah : *The Constitutional History of India* page 179.

Reference must be made to another mode in which the control of the Secretary of State-in-Council over the Government of India was relaxed. This was known as the method of *Convention.* It was suggested by the Joint Select Committee, and the suggestion was adopted, that in fiscal matters the Secretary of State should not interfere if there was agreement between the Government of India and the Central Legislature. It was, however, not of much value.

Similarly, it was accepted as a convention that the Government of India should not interfere in purely provincial affairs if there was agreement between the Provincial Government and the Legislative Council.

The Act also made a few other changes in the Home Administration. The most important of them related to the salary of the Secretary of State. Till the passing of the Act of 1919 it was being paid out of Indian revenues. The practice was bad and prevented the British Parliament from criticising the administration of the Secretary of State at the time of annual appropriation. The Act laid down that it should be paid out of the monies provided by the British Parliament and thus brought him under its control to greater extent. The second change effected was the separation of what have been called *Agency* functions of the Secretary of State from his other duties and their transfer to a new official called the High Commissioner for India. In the third place, it reduced the number of the members of his India Council. It was to consist of not less than eight and not more than twelve as the Secretary of State might determine. The term of office of its members was reduced from seven to five years. Their salary was fixed at £ 1200/- a year, and an extra annual allowance of £ 600/- was granted to those members who were domiciled in India at the time of their appointment. The number of Indian members of the Council was raised from two to three.

The Reforms of 1919 in Operation

Introductory.—After having explained the main provisions of the Government of India Act of 1919 so far as they related to the structure, powers and functions of the Central Government, Provincial Governments and the Home Administration of Indian Affairs, and determined the extent of and the manner in which it sought to introduce responsible government in our country, we would now describe its actual working. Since the establishment of Dyarchy in

the provincial sphere was the most fundamental and also the most novel feature of the Act, we shall first determine whether the experiment was a success or a great failure.

Political Conditions on the eve of the Reforms.—A few preliminary observations may be made. There can be no denying the fact that the Act of 1919 was a very great advance upon the existing system ; for the first time in the history of British India it declared that it was the aim of British policy in India to prepare the country for responsible government, and took the first step in the direction. It must also be admitted that democracy is a plant of slow growth ; it presupposes qualities among the people which cannot be cultivated all at once. It demands of those who work it a perception of and loyalty to the common interests which would enable the decision of the majority to be peaceably accepted. The majorities must practise toleration and good will and the minorities must show patience, and all must exhibit the sense of the sanctity of the rights of other persons. The authors of the Montford Report recommended Dyarchy as they thought that conditions in India were not ripe for the introduction of full-fledged responsible government. They wanted to give the people of India training in the art of self-government.

If the Reforms of 1919 had been conceded to India before the War, they would have evoked great enthusiasm among the people ; they would have been gratefully accepted and earnestly worked. But what would have been certain in 1913 became impossible in 1920. The intervening years of the War made all the difference. War intensified the spirit of nationalism in India. In view of the creation of several new national states in Europe, the assumption of an equal status with Great Britain by the Dominions, and the new spirit of independence in several Asiatic countries, it became very hard for Indian patriots to accept gradual development of self-government, and harder still 'to accept the claim of a foreign Parliament to decide whether and where and to what extent Indians had shown themselves fit for self-government.'* In short, because of the rising tempo of Indian Nationalism as a direct consequence of the World War the Reforms of 1919 failed to satisfy Indians. They were viewed as a half-way house, and as such did not create popular enthusiasm.

* Coupland : *India : A Restatement*, page 117.

We have already referred to the radically different views held by the Moderates and the Extremists in regard to the Montford Reforms, and to the secession of the Moderates from the Indian National Congress. As a consequence of their secession the political colour of the Congress changed completely ; its leadership passed into the hands of the Extremists. It was thus a foregone conclusion that it would reject the Government of India Act of 1919. At the Amritsar session of the Congress which was held in 1919 after the harrowing tragedy of Jallianwala bagh and the horrors of the martial law regime in the Punjab, Deshbandhu Chitranjan Das moved a resolution rejecting the Reforms as unsatisfactory and disappointing. Mahatma Gandhi, who had returned from his successful campaign of passive resistance in South Africa and had conducted his experiments in Satyagraha on five different occasions in India after his return, moved an amendment to the effect that the Congress would work them with a view to the early establishment of full Responsible Government in the country. It also thanked Mr. Montagu for his labours in connection with the Reforms. The Congress accepted the substance of Mahatmajee's amendment with some changes. The resolution moved by Deshbandhu Das and the amendment of Mahatmaji would be reproduced in full in the next chapter.

But events in the country were moving fast. The failure of the Government to redress the Punjab wrongs and solve the Khilafat issue to the satisfaction of the Muslims turned Mahatma Gandhi from a cooperator into a non-cooperator. At the special session of the Congress held at Calcutta in September, 1920, the resolution moved by Mahatma Gandhi asking the nation to adopt a policy of progressive non-voilent non-cooperation (which was to begin with the renunciation of titles bestowed by the Government and the triple boycott of the reformed legislatures, law courts and the educational institutions, and end in non-payment of taxes) was carried by 1855 votes out of a total of 2,728. It was confirmed at the regular annual session held at Nagpur in December, 1920. The reasons which led Mahatmajee to advocate the policy of non-cooperation with the Government including the boycott of the legislatures would be stated in detail in the next chapter. Here only this much may be stated that the movement of non-voilent non-cooperation which swept over the country from end to end produced an atmosphere distinctly un-favourable for the success of the Government of India Act of

1919. In place of goodwill and friendliness which would have made the Reforms a success there was bitterness, estrangement and distrust which foredoomed its failure. The elections to the legislatures were boycotted by the Congress, and all those who entered them and the few persons who accepted office as ministers found themselves in none too enviable an atmosphere. Feelings ran very high and those who tried to work the Reforms in opposition to the popular sentiment came in for much opprobrium and must have felt stifled. The conditions under which the Reforms were introduced were thus most unfavourable. They became much worse after a couple of years when Mr. Montagu, who had tried his best to see that the Government of India worked them in the proper spirit, was made to leave the Cabinet, and in his place a reactionary conservative was appointed as the Secretary of State for India. The Tories who dominated the British Government resolved upon a firm policy in India, and instructions were issued that the Reforms were to be worked in such a way as to give to India not the maximum of self-government but its minimum. The spirit of Montagu was thus completely reversed. The Liberal Ministers felt the change and some of them resigned from office. The first to feel the effect of the changed spirit and resign his office in April 1922, as a protest against the policy of 'firmness' adopted by the Government of India was Sir Tej Bahadur Sapru who was the right-hand man of Lord Reading during the first year of his Viceroyalty, though he said that he could not remain Law Member on 'grounds of health.' Mr. C. Y. Chintamani and Pandit Jagat Narayan Mulla, Ministers in U. P., resigned in May, 1923. They found that the conditions became unbearable after the departure of Mr. Montagu from the India Office. The warning given by Deshbandhu Das to Mr. Montagu that the Reforms 'could not work, that the I. C. S. would have it in their power to prevent it working and meant to do it' turned out to be true. So long as Mr. Montagu was there, the Reforms were worked in a proper way ; in the words of Mr. Chintamani, one had to 'make an effort to realise that one was under Dyarchy—the two halves of the Government were working so harmoniously.' But after his resignation the spirit of the Reforms was denied completely. Instructions were issued from London that hence-forth 'the Reforms were to be worked with a view of not how much, but how little, self-government for India they could be made

to yield.'* The Government of India started the process of paying no heed to, and even defying, the wishes of the Assembly. Some instances to illustrate the point may be given.

(*i*) In September, 1922, the Government of India wanted to introduce the Indian States (Protection against Disaffection) Bill. The Assembly refused permission to introduce it. The Viceroy, Lord Reading, certified it as necessary and urgent, and it became law. There was no necessity for it, much less any urgency. But the Government were keen upon placating the Princes in whose territories the Prince of Wales was received with great enthusiasm and honour, and so were bent upon placing the Bill on the statute book. They therefore did not care for the wishes of the Assembly.

(*ii*) In 1923 Sir Basil Blackett, the Finance Member of the Government of India, proposed the doubling of the Salt tax as a revenue-raising measure. The Assembly objected to the proposal, because it hit the poorest classes very hard, and suggested alternative ways of raising the revenue. Inspite of its rejection of the proposal, the Governor General certified it as necessary and urgent. There was, of course, no emergency about the measure.

(*iii*) The whole of India demanded with one voice the release of Mahatma Gandhi who was operated upon for appendicitis while undergoing his six-year term. The Viceroy made no reference to it in his opening address to the Legislature in 1924. The Assembly was to debate a private motion for his release on the 5th of February. The Governor General, in order to avoid creating the impression that he did anything out of deference to the wishes of the Assembly released him that very morning.

The way in which the Government of Lord Reading administered the affairs of the country brought into very clear relief the vast powers which the irresponsible executive enjoyed in comparison to which every thing else seemed insignificant. As if the changed attitude of the Government was not sufficient to nullify the Montford Reforms, Destiny sent the Swarajists to the legislatures as a result of the general elections held under the Act in 1923. Their avowed object was to offer 'uniform, continuous and consistent opposition' to the Government. Between the decision of the Government to work the Reforms in such a way as to make them yield the minimum of self-government to Indians and the policy of uniform and presis-

* Zacharias : *Renascent India*, page 217.

tent obstruction of the Swarajists the fate of the Reforms was sealed.*

Critical Estimate of Dyarchy.— It would however be wrong to conclude that the Montford Reforms failed wholly because of the external circumstances ; they had some inherent defects also on account of which it was no easy matter to work them successfully. The experiment worked only so long as dyarchy was ignored in practice ; the moment it was decided to run the government as dyarchy, it failed. It failed because it gave rise to friction. The more important of the defects inherent in the scheme are given below.

Dyarchy was not only a novel but also a clumsy experiment in constitution-making. Its opponents considered it unsound in theory and unworkable in practice ; even its friends and supporters had nothing better to say in its defence than that it was better than any other alternative open to them. It clumsiness and theoretical unsoundness lay in its attempt to introduce responsibility in one part of Government and leave the other irresponsible. One of the Provincial Governors rightly characterised dyarchy as a 'cumbrous, complex, confused system, having no logical basis and rooted in compromise.' According to Lord Lytton the reserved half of the government was disliked but respected, whereas the transferred half was not only disliked also despised.

Dyarchy is unsound in theory because it proceeds on the assumption that it is possible to divide the various departments of government into two groups and entrust the administration of each group to two different agencies responsible to two different authorities This assumption runs counter to the basic fact that government in an organic whole and cannot be normally divided into compartments administered in different ways. It has nothing to support it in the experience of civilised people or the history of mankind.

Indians disliked the system because it was based on the distrust in their capacity to manage their own affairs. Matters like law and order and land revenue which touch the lives of the

* The following extract from Zacharias would be read with interest in this connection : 'The Montford Reforms were thus subjected to a two-fold spirit of irresponsibility by the Government no less than by the Swarajists : both treating them contemptuously and as a mere make-belief.' Page 242.

people were not handed over to responsible ministers. Furthermore, undue restrictions were placed upon the transfer of power to the ministers in the transferred subjects which were much resented by the ministers and the people. Of course, the British statesmen looked at the question from a different angle, and introduced partial responsibility because of their faith in the capacity of the people and with a view to their training in the art of self government. But it is the general resentment of the people and their leaders which determined the fate of the experiment and not the views of the British statesmen.

It should also be pointed out that for its successful working dyarchy postulated qualities in the Provincial Governor which are not easily found. It placed very large powers in his hands and the success or failure of the scheme to a large extent depended upon the way he exercised them, particularly on the manner in which he tried to settle the conflicts which were bound to arise between the two halves of government. It was his task to secure harmony and cooperation and maintain equipoise between them. This demanded not only sympathy for the aspirations of the people but also tact, patience, reasonableness and impartiality on the part of the Governor. Unfortunately, most of the provincial Governors did not work the scheme in the spirit in which it was intended to be worked by its authors. This contributed a good deal to its failure.

Causes of Failure of Dyarchy.—(*a*) As has been shown above dyarchy is wrong in principle. (It means the division of an organic whole into two irreconcilable halves, one popular and elective in origin, and the other official and non-elective. This inherent defect of the system was aggravated by the way in which the provincial subjects were divided into transferred and reserved.) The division was made in such a way that the Ministers in charge of the transferred subjects 'were never in control of the whole of any single department'.*) This point was stressed with great force by Sir V. K. Reddi, the first Minister for Industries in the Madras Government in the course of his evidence before the Muddiman Committee. He said : 'I was a Minister for development without the forests. I was a Minister of Agriculture minus irrigation.

* Kerala Putra : *The Working of Dyarchy in India* page 45.

As Minister of Agriculture. I had nothing to do with the administration of the Madras Agriculturists Loans Act or the Madras Land Improvement Loans Act. The efficacy and efficiency of a Minister of Agriculture without having anything to do with irrigation, agricultural loans, land improvement loans, famine relief, may better be imagined than described. Then again, I was Minister for Industries without factories, boliers electricity and water power, mines or labour, all of which are reserved subjects.' Similarly, the Minister for Education had nothing to do with European and Anglo-Indian Education, and with Chiefs' Colleges and institutions run by Government for the benefit of the armed forces or members or children of members of other public services. The division of functions was thus made in such a way as to leave little freedom to the ministers in administering their departments ; the transferred departments were put in a position of dependence on the reserved departments. (This was a serious drawback of the scheme of dyarchy and contributed not a little to its failure.)

(b) We have. seen that the authors of the Report on Indian Constitutional Reforms did not contemplate that the Governor should occupy the position of a purely constitutional head bound to accept the decisions of his ministers, and reserved to him a power of control over them and expected him to refuse assent to their proposals, if he thought that assent to them would have serious consequences. But they hoped and intended that he would meet their wishes to the furthest extent and promote their policy whenever possible. The Governors did not generally act in accordance with the spirit of the Report after the exit of Mr. Montagu. After the Reforms had been in operation for two years—during these first two years the country was in the grip of the movement of onn-violent non-co-operation started by the Congress under the leadership of Mahatma Gandhi for the redress of the Punjab wrongs and the Khilafat question, and the Government was in need of all the help the Moderates could give them in suppressing—the Governors usually forgot the intention of the Reforms and began to interfere more and more with the work of the Ministers. Mr. Kelkar of the Central Provinces complained that the Governor, while allowing him to have his way in matters of policy, overruled him constantly in matters of detail. Mr. Chintamani in the U. P. complained that

the power was with the Governor and not with the minister. The Governor overruled him even in the matter of nominating a person to a Library Committee. There were three methods by which the Governors concentrated large powers in their hands. (i) They were empowered by the Act to frame Rules and Orders for the more convenient transaction of business. They framed them in such a manner as to concentrate power in their own hands. For example, one of the rules required the Secretary to the Government in every Department to meet the Governor once a week and discuss with him all the important matters, arising in his department. The Secretary was also required to submit to the Govarnor all the cases in which he differed from the minister for final decision by the Governor. These rules reduced the authority of the ministers a good deal and strengthened the position of the Governor. (ii) Instead of consulting their ministers jointly, they began to deal with them individually which made it easier for them to overrule either of them in case of difference of opinion. (iii) Some Governors, advanced the novel theory that the ministers were merely their advisers, and that it was open to them to accept or not to accept the advice given by them. The position to which the ministers were reduced is well brought out in the following statement of Mr. Chintamani. He said : "I have passed through every stage from a habitual 'Honourable Minister is responsible and his view shall prevail', and 'I must support the Honourable Minister,' to being overruled in matters of varying degrees of importance and unimportance down to a library committee"

(c) The Governors were charged by the Instrument of Instructions to protect the members of the Public Services in the enjoyment of their recognised rights and privileges. This was interpreted by the Governors to mean that all matters relating to the Services, including those of transfers, postings and promotions, even in the Ministers' departments were under their control. Prior to 1922, appointments to various provincial posts used to be made by the Governor with the concurrence of his colleagues in the Executive council. The members of the Council recorded their view and the majority opinion prevailed. At a later stage the Governor adopted the practice of making the appointments himself and merely informing the members of the fact. The net result of all these developments was that the provincial Governors became very power-

ful. The control of the Secretary of State over them was relaxed, but there was no corresponding increase in their responsibility to the provincial legislatures. It can thus be said that dyarchy which was designed to introduce responsibility resulted in the increase of irresponsible power of the Governors.

(*d*) It would be recalled that the authors of the Report on Indian Constitutional Reforms had recommended joint deliberation between the two halves of the provincial government. The Governor was charged by the Instrument of Instructions to encourage the habit of joint deliberation between himself, his Councillors and Ministers 'in order that the knowledge of your official advisers may be at the disposal of your Ministers, and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors.' This advice was, however, ignored by many a Governor. Except in Madras, joint consultations, if held at all, were informal. The executive councillors were, of course, always ready to make use of the ministers' influence with their followers in the Legislative Council, but were not willing to take them into confidence and consult them in important matters. The ministers thus had little opportunity to influence the administration of the reserved half, but were expected to support the measures of the executive councillors on the floor of the legislature. If they did so, the public accused them of forsaking their principles after taking office and of being subservient to the Bureaucracy ; if they opposed them, the result was increased friction between them and the other half of the Government. The plight of the ministers was thus sad indeed.

(*e*) Another defect of dyarchy which contributed to its failure to a large extent lay in the fact that the ministers were not in a position to exercise due control over the services in the departments under their control. It has been pointed out already that the Governor interpreted his right to safeguard the legitimate rights and privileges of the public servants to mean his right to control their transfers, postings, promotions, etc. The result was that the ministers had no power to choose their subordinates when vacancies arose. It is on record that the Minister-in-charge of the Medical Department in Madras wanted to appoint a particular person as the Surgeon General, but he was over-ruled, and an I. M. S. officer from North India brought over to fill the vacancy. The Ministers could not always enforce obedience to their orders on the part of persons like

district officers serving under the reserved departments. In this connection it may be pointed out that the Secretaries to the Government in the various departments had the right of direct access to the Governor and receive instructions from him over the head of the ministers. This made the position of the ministers weak, and was inconsistent with the spirit of responsible government.

(*f*) The ministers found themselves greatly handicapped in the execution of their policies by financial stringency. Not only were the finances of the provinces left in a weak position by the contributions they were required to make to the Government of India under the Meston Award, but the provincial Finance Department everywhere adopted a step-motherly attitude towards the transferred subjects. As was pointed out by Mr. Chintamani in his evidence before the Muddiman Committee, the Finance Department was naturally more anxious to see that the reserved departments got all the money they required before other departments could obtain what they wanted. On one excuse or another the Finance Department refused to sanction money for the schemes framed by the ministers. To quote Mr. Chintamani, 'I am prepared to state this without any exaggeration that it was a very general experience of both the ministers in the United Provinces that they had to contend with great difficulties when they went to the Finance Department, that pretty frequently they had to go before the Governor, pretty frequently the Governor did not side with them and pretty frequently they could gain their point in the end by placing their offices at the disposal of the Governor.' Perhaps, conditions would not have been so bad if separate sources of revenue were made available to the transferred departments. But this suggestion did not find favour either with the joint authors of the Report or with the Joint Select Committee.

(*g*) But perhaps the factor which contributed most to the failure of dyarchy was that, on account of the peculiar composition of the legislative councils, there could be no *real* ministerial responsibility whose introduction was the most vital feature of the Reforms of 1919. Ministerial responsibility means that the ministers should hold office at the will of the popular representatives in the legislature and that the latter should have ample opportunities to review the work of the ministers and be able to give their approval or disapproval to it. Under the conditions prevailing in the provinces these conditions

were not realised. Ministerial responsibility was more a myth than a reality.

The provincial legislative councils were not wholly elected bodies ; each of them contained a sufficiently large and solid bloc of official and nominated non-official members who constituted about 30% of the total strength. Some of the elected members represented special interests and usually voted with the Government. Thus, if a minister could secure the support of about a score of elected members, he could be kept in office by the Governor with the help of the official and nominated members whether or not he had the backing of a majority of the *elected* members. Responsibility to the legislature technically meant responsibility to the whole of the Legislative Council and not to the elected members of it.* Partly because of the absence of well-organised political parties and partly because of separate representation given to certain classes and interests, it was not easy for any ministry to function without the support of the official bloc. The tactics employed by the Swarajists drove the ministers more and more into the arms of the reserved half. Dyarchy thus did not work in the way it was expected to work ; instead of being popular, ministers came to be viewed as parts of the irresponsible bureaucracy. An example may be cited to illustrate the point. In July 1927, the Opposition in the Madras Legislative Council moved a resolution of no-confidence in the ministers. A majority of elected members voted for the resolution, but it was defeated with the help of the official and nominated non-official members. The fortunes of the responsible half thus depended on the support of the irresponsible half. An analysis of the division lists in provincial legislative councils would constitute an interesting study from this point of view. A study of the figures would reveal the fact that between the years 1921 and 1928 there were 104 divisions out of which the government lost only 21. But if the votes of the official bloc are not taken into account, the total number of Government defeats would be 49. This means that though the ministers did not obtain the confidence of a majority of elected numbers of 49 different occasions, they remained in office. They did not think that the confidence of a majority of elected members was necessary for continuation.*

Because of the rules of procedure adopted by the Legislative

* Refer to Appadorai, *Dyarchy in Practice*, page 357.

Council and to a certain extent because of the fact that for the first four years their Presidents were appointed by the Governors, the members did not have all those opportunities of exercising control over the work and policies of the ministers which they have in countries like Great Britain. In one case the President refused to allow a motion of no-confidence in the ministers. The Committee system also was not well developed in the provincial legislatures.

(*h*) (One other weakness of dyarchy which was not inherent in it but was due to external factors may be mentioned. The ministers did not always belong to the same group ; they did not always follow a common and identical policy. In some cases they belonged to rival groups and not only did their followers fight against each other in the Legislative Councils, but they themselves did not hesitate to criticise each other's proposals. There could not develop any spirit of joint ministerial responsibility under such conditions, and the Governor dealt with each minister separately and without reference to his colleague.)

The following passage sums up in a beautiful way the reasons which led to the failure of dyarchy : 'Thus, from every point of view, Responsible Government even of a partial character, which was the purpose and object of the Reforms, has failed altogether to materlalise. The size and permanence of the official *bloc*, the special interests which are bound to support the Executive at all time seriously restrict the value of a majority in the Legislature as an expression of popular confidence. Responsibility to a majority consisting mainly of the bloc is not responsibility to popular representatives but to official nominess. This was not and could not have been the purpose of the Act. As it is, with the leadership of the House in the Executive Councillor and the Ministers themselves moulding their policy in order to secure the goodwill of the official bloc, and the Councils unable to enforce their nominal authority, the Ministers have become subordinate administrators, taking their orders from the Governor and depending for their existence on the good graces of their colleagues. It is clear, in this particular matter, which was the essential part of the Reforms of 1919, that the Act was worked by the executive in a spirit which travestied its intentions. This is but another instance, of which many can be found in British Indian history, of the local authorities taking away what the Parliament had given.'*

* **Kerala Putra** : *The Working of Dyarchy in India ;* **page 57.**

Such were the factors which led to the failure of dyarchy. It was a failure in the sense that the objective for the sake of which it was introduced was not realised ; there was no real transfer of power to the people, no genuine responsible government even in the limited sphere of transferred subjects. The absence of stable political parties, the presence in the legislatures of a large bloc of officials and nominated non-officials, and of persons returned from communal and special constituencies, the joint purse, the powers of the Governor to override the advice given by the ministers, the rights of the services, the right of the Secretaries to have direct access to the Governor : all these factors combined together to prevent the growth of responsible government in the provinces.

Achievements.—It must, however, be pointed out that in some of the provinces like the U. P. and Madras, for the first two years, at least, the ministers were prepared to act on the principle of joint responsibility and also to resign if they lost the confidence of a majority of elected members or when they were overruled by the Governor. Surendra Nath Bannerji who was the Minister for Local Self-Government in Bengal says in his autobiography that dyarchy did not fail in Bengal. 'Both Lord Ronaldshay and Lord Lytton were statesmen like in their attitude of sympathy and help, and stood by the Ministers with their generous support. They acted as constitutional sovereigns and made no distinction between Members and Ministers.'* This shows that the system was worked in different ways in different provinces ; it was slightly more successful in some provinces than in others, thanks to the cooperation between Mr. Montagu and the Indian Liberals it worked more successfully during the first two years than during the last fourteen years of its existence.

It should also be remembered that though the provincial legislative councils could not always enforce popular responsibility on the ministers, they made fairly good use of their powers in other directions. By their power over the purse, however restricted in scope and however limited, by the power of certification possessed and sometimes used by the Governor by their power of moving resolutions on important policies of the State and raising discussions on them, moving motions of adjournment to call attention to probl ms of an urgent public nature and asking questions, they exerted some influence on the executive. They also passed some

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* *A Nation in the Making*, page 384.

important legislation of a progressive and liberalising character. On assuming office the ministers turned their attention to the much-needed reform of local bodies, and in several provinces Acts were placed on the statute book which resulted in the reorgansaition and democratisation of the municipal and district boards. Education was also attended to. In some provinces social legislation of a far-reaching nature was passed ; e. g., the Hindu Religious Endowment Act of Madras and the Children's Act of Bengal. It was no small gain that the new system brought many Indians into touch with problems of administration and with the difficulties of self-government. It was a good training we got under dyarchy.

Similar observations may be made about the work of the reformed Central Legislature. Though the executive was not at all made responsible to it, it was given large powers of influencing it. And it used them to good purpose. 'It has been critical of the attitude of the Government : it has on occasions used its powers for purposes of political demonstration. But no impartial critic who studies its debates and estimates its work, can fail to come to the conclusion that it has used its powers for the benefit of the people with reasonable regard to the difficulties of the Government and the anomalous position of a non-sovereign Executive. Its legislative work has been far-reaching and comprehensive ; its influence in matters of administration has not been directed either. towards a weakening of the Central Government or exercised without consideration of the supreme necessity of maintaining law and order. Its enthusiasm for social reform has been praiseworthy and it has been assiduous in its demand for Indianisation of the services and for a share in the national defence. It has effected considerable retrenchment in administration and has continuously impressed on the Government the necessity of economy"*

* Kerala Putra : *op. ct.*, page 108—109.

CHAPTER VI

The National Movement : 1919-1935.

Introductory.— In Chapter III we described the factors which paved the way for the establishment of the Indian National Congress as the spearhead of Indian Nationalism, and traced its growth till 1918. Towards the close of Chapter IV we referred to the secession of the Liberals from the Congress on the issue of Montford Reforms, and to the non-violent non-cooperation movement started by the Indian National Congress under the leadership of Mahatma Gandhi with a view to the redress of the Punjab and Khilafat wrongs and the attainment of Swaraj, but postponed a detailed account of the two issues of the Punjab and Khilafat wrongs to this chapter. We shall now pick up the thread of our narration at this point and explain the how and why of the non-violent nen-cooperation movement. Since the inspiration and urge for this movement proceeded from Mahatma Gandhi whose entry into the political and national life of the country was the most important event of those days, a few words about him would not be out of place here.

The Entry of Mahatma Gandhi.—The name and fame of Mahatma Gandhi as the hero of passive resistance against the Government of South Africa for the repeal or withdrawal of the Anti-Asiatic legislation of Transvaal in regard to the Registration and Immigration of Indians in that part of South Africa had preceded his return to India in 1914. In the course of that struggle he had come into contact with Gopal Krishna Gokhale who had extended his sympathy and active support to him in many ways. Highly impressed by the character and personality of Gopal Krishna Gokhale, Mahatma Gandhi had already decided to make him his political guru even before returning to India. On arrival back home he desired to become a member of the Servants of India Society founded and run by Gokhale. Gokhale himself was keen on having Gandhijee as a member, he even wished him to be his saccessor as the President of his Society.' But the members of the Society were not agreeable to the idea ; they saw that there was a great and fundamental difference between the ideals and methods of work of Gandhijee and their own. Before any decision could

be taken, Gokhale died ; and Gandhijee withdrew his application for membership of the Society. This episode has been referred to here to emphasise the point that in his political ideas and temperament Mahatma Gandhi was a moderate like Gokhale ; he believed and prided in the citizenship of the British Empire, and offered his services to the Government of India as a recruiting agent and for ambulance corps. He was awarded a medal for his services in the War.

His early Experiments in Satyagrah—Gandhijee wanted to set up an ashram of his own where he could settle some twenty-five men and women who were members of his Tolstoy Farm and Phoneix Settlement in South Africa and who had come to India. He selected a place near Ahmedabad on the bank of Sabarmati river for the purpose, and named the ashram as Satyagrah Ashram. It was the intention of Gandhijee to use the Ashram for the purpose of acquainting his countrymen with the method he had tried in South Africa and to determine the extent to which it could be applied in India. His attitude was that of an inventor and experimenter and not that of one who was getting ready for a fight. And he soon got several opportunities for his experiments in Satyagrah. Before he decided to offer Satyagrah against the passing of the Rowlatt Bill in 1919, he had occasion to use it in five different cases. The most important of them was in Champaran, a district in Bihar, where the poor, ignorant and helpless peasants were being subjected to relentless exploitation by the European Indigo planters. He went there to make inquiries into their conditions, and was served with a notice by the Commissioner to quit the district. Gandhijee refused to comply with the order and was prepared to face the consequences. He was produced before a magistrate who did not know what to do. The Lieutenant Governor of the province intervened, and Gandhijee was allowed to continue his investigation. As a result of his enquiries the Bihar Legislative Council passed the Agrarian Bill which removed the grievances of the peasants. This was a great victory for the Mahatma and an object lesson in the efficacy of Civil Disobedience. This episode also shows that Gandhiji was inspired by the desire to find grievances of the people and to cure them ; it was not his aim to give fight to the Government. He was a co-operator at heart.

Mahatmaji : a Co-operator.—His moderate attitude and desire to cooperate with the Gevernment are evident from the following

extract from his paper, *young India.* In the issue of December 31, 1919, he wrote as under : 'The Reforms Act coupled with the proclamation is an earnest of the intention of the British people to do justice to India and it ought to remove suspicion on that score... Our duty is not to subject the Reforms to carping criticism but to settle down quietly to work so as to make them a success.' It should be remembered that it was chiefly on account of Mahatma Gandhi that the Amritsar Congress decided to work the Montagu-Chelmsford Reforms. The story of the way in which this was achieved is interesting and deserves to be narrated in some detail.

It would be recalled that a section of Congressmen was severely critical of the Reforms and recommended their total rejection. The attitude of this group found expression in the resolution moved at the Amritsar session by Shri Chitranjan Das. It ran as under :

(*i*) 'That this Congress reiterates its declaration of last year that India is fit for full responsible government and repudiates all assumptions and assertions to the contrary.

(*ii*) 'That this Congress adheres to the resolution passed at the Delhi Congress regarding Constitutional Reforms and is of opinion that the Reforms Act is inadequate, unsatisfactory and disappointing.'

(*iii*) 'That this Congress further urges that Parliament should take early steps to establish full responsible Government in India in accordance with the principle of Self-determination.'

Mahatmaji moved an amendment that the word 'disappointing' be omitted, and the following be added as the fourth paragraph : 'Pending such introduction, this Congress begs loyally to respond to the sentiments in the Royal Proclamation, namely, "Let the new era begin with a common determination among my people and my officers to work together for the common purpose,' and trusts that both the authorities and the people will cooperate to work the Reforms as to secure the early establishment of Full Responsible Government.

'And this Congress offers its warmest thanks to the Rt. Hon. E. S. Montagu for his labours in connection with them.'

It would thus be obvious that whereas Deshbandhu Das, B. C. Pal, and others stood for outright rejection of the Reforms. Mahatmaji pleaded for cooperation with the Government in their working. He was convined of the intention of the British people to do justice to India. The Congress passed a compromise resolution

which embodied the original resolution as moved by Shri C. R. Das, and the following additional paragraph in place of the one proposed by Gandhiji : 'Pending such introduction, this Congress trusts that, so far as may be possible, the people will so work the Reforms as to secure an early establishment of full responsible government and this Congress offers its thanks to the Rt. Hon. E. S. Montagu for his labours in connection with the Reforms.'

Mahatmaji turns a Non-cooperator.—But events passed so swiftly and dramatically during the succeeding nine months that the situation was completely reversed. At the special session of the Congress held at Calcutta in September, 1920, Mahatmaji advocated non-cooperation with the Government and urged the boycott of the Legislatures to be set up under the Montford Reforms, while those like Deshbandhu Das and B. C. Pal who stood for rejecting the Reforms now opposed Mahatmaji. That a sober and moderate-minded person like Mahatmaji who believed in the good intentions of the British Government and the British people towards India should have been driven to regard the Government of British India as *satanic* and lead the country into the path of non-cooperation with it is an exceedingly sad commentary on the ways and methods of the Government of British India. The subsequent history of the national movement in India cannot be fully understood without some knowledge of the causes which converted Gandhiji from a cooperator into a non-cooperator, and ultimately led him to lead the Quit India movement in 1942.

The causes of this conversion are best set forth in the remarkable statement made by Mahatmaji before Mr. Broomfield, who tried him in March 1922 for having preached sedition through his writings in his weekly, *Young India*. Therein he explained why he was forced to turn against the government after having cooperated with it all his life. He said : 'The first shock came in the shape of Rowlatt Act, a law designed to rob the people of all freedom. I felt called upon to lead an intensive agitation against it. Then followed the Punjab horrors beginning with the massacre at Jallianwala Bagh (in Amritsar) and culminating in crawling orders, public floggings and other indescribable humiliations. I discovered, too, that the plighted word of the Prime Minister to the Mussalmans of India regarding the integrity of Turkey and the holy places of Islam was not likely to be fulfilled. But inspite of the foreboding and the grave warning of

friends, at the Amritsar Congress in 1919, I fought for cooperation and working the Montagu-Chelmsford Reforms, hoping that the Prime Minister would redeem his promise to the Indian Mussalmans, that the Punjab wound would be healed and the Reforms, inadequate and unsatisfactory though they were, marked a new era of hope in the life of India. But all that hope was shattered. The Khilafat promise was not to be redeemed. The Punjab crime was whitewashed and most culprits were not only unpunished but remained in service and some continued to draw pensions from the Indian revenue, and in some cases were even rewarded. I saw, too, that not only did the Reforms not mark a change of heart, but they were only a method of further draining India of her wealth and of prolonging her servitude.'

A few words about the Rowlatt Act, the Punjab wrong and the Prime Minister's pledge to the Indian Mussalmans to which reference has been made in the above-quoted passage, seem to be called for by way of explanation. They are subjoined below.

Rowlatt Act and After.— It would be recalled that during the first decade of the present century the terrorist movement had come into existence in the country, largely as a result of the highly oppressive and repressive measures adopted by the Government in dealing with the movement against the Partition of Bengal. This movement reached its peak during the early years of the World War. The Government of India passed a special legislative measure, known as the Defence of India Act, for dealing with it. This Act was made for the duration for the War. The Government of India wanted to arm itself with special powers for dealing with revolutionary crimes after the Defence of India Act ceased operate. It appointed a committee presided over by Mr. Justice Rowlatt to go into the matter and submit its report. It submitted its report in April, 1918. It came to the conclusion that the ordinary criminal law was not adequate to cope with revolutionary crimes, and recomended two kinds of special legislation to meet the situation at the end of the War. The Government of India got two bills prepared to give effect to the recommendations of the Rawlatt Committee. They came to be known as Rowlatt Bills or Black Bills. There was universal protest in the country against their introduction. Inspite of deep popular agitation, inspite of the warning given by Mahatmajee that in case the black legislation

was not withdrawn, he would be forced to resort to stayagrah, and in the teeth of united opposition of the Indian members of the Central Legislature, one of the two bills became law under the name of The Anarchical and Revolutionary Crimes Act of 1919.

Somehow the idea struck Mahatma Gandhi that the best way of launching his Satyagrah against the passage of the Black or Rowlatt Bill would be to organise a country-wide *hartal.* Originally the 30th of March, 1919, was fixed for the suspension of all business and for fasting and prayer, but later on the date was shifted to the 6th of April. Information regarding the change of date did not reach some places, and the people of Delhi observed it on the 30th of March. There was clash between the people who wanted Railway Refreshment Stall to observe hartal and the police in the course of which the latter resorted to firing resulting in the loss of about eight lives. Mahatmaji was informed of the incident and asked to proceed to Delhi. He promised to come after the hartal on the 6th. While on his way to Delhi, he was arrested at Palwal on the morning of the 8th of April, and sent back to Bombay under police escort. News of his arrest spread like wild fire and led to disturbances in several places, notably in Delhi, Ahmedabad, and in the Punjab which had the misfortune of being governed by Sir Michael O'Dwyer. The hartals on the 30th of March and the 6th of April had passed off peacefully at Amritsar, but the city and the province were set ablaze by the arrest and deportation of Drs. Satyapal and Kitchlew two prominent leaders of Amritsar. The people took out a procession and demanded the release of their popular leaders. They were stopped on the way and fired upon twice. This let loose an orgy of violence on the part of the mob who took vengeance upon any European who came their way. Troops were rushed into the city and the mob melted away by the evening. This took place on the 10th of April. On the 11th also there was a procession in protest and hartal ; but public meetings were banned on the 12th. The notice banning meetings was not properly circulated, and in ignorance of it a public meeting was announced for the 12th in the Jallianwalla Bagh in the heart of the city. People were allowed to assemble there, and after they had gathered there in thousands, General Dyer marched there with armoured cars and troops and without giving any warning to the people to disperse ordered his soldiers to fire upon the gathering

which was unarmed and absolutely peaceful. The casualties were heavy, and would have been heavier still if General Dyer could take his machinegun with him. His purpose was to strike terror into the hearts of the people. This deliberate and unprovoked massacre would remain a dark spot upon British administration for all time to come. It was the beginning of the tragedy which converted Mahatma Gandhi into a non-cooperator.

It is not necessary to go into the details of the happenings at Amritsar, Lahore, Kasur and other places in the Punjab, and the horrors perpetrated by the Government of the province under Sir Michæl O'Dwyer during the martial law. Two committees were appointed to inquire into these incidents and report on them, one by the Indian National Congress, and the other by the Government of India. The Congress Inquiry Committee published unimpeach able evidence of the most brutal excesses committed by the servants of the government. The report of the Government Committee, known as the Hunter Committee, did not go so far, but even its findings were highly damaging. The Indian public expected that, in view of the Royal Proclamation and the inauguration of the Montford Reforms, the Government would punish the wrong doers and grant adequate compensation to all those who had suffered during the Martial Law regime. But nothing of this kind took place. Nay, even before the Hunter Committee began its work, the Government had passed an indemnity bill shielding all officials guilty of excesses in dealing with the disturbances. The Hunter Committee Report (majority) sought to whitewash the guilt of General Dyer and took the view that his conduct was based upon 'an honest but mistaken conception of duty', and that he 'exceeded the reasonable requirements of the case' due to a grave error of judgment'. The Government of India merely removed him from service, and took no action against Sir Michael O'Dwyer. The British Parliament; too, failed to rise equal to the occasion and apply balm to the aching Indian heart. Worse still, some of the speeches delivered in the House of Lords on the motion of Lord Finlay condoning General Dyer's conduct shocked people in this country. The fact that the Anglo-Indian Press greeted General Dyer as the saviour of British rule, and that subscriptions were raised for him worsened the situation still more. These things showed that Great Britain was absolutely unrepentant for the great

wrong done to the Punjab. This produced a great revulsion of feeling all over the country and had a decisive effect on Mahatma Gandhi who concluded that a government that could condone such terrible wrongs must be evil in nature. He therefore decided to dissociate himself from it in all possible ways. He would not abet evil, and therefore became a non-cooperator. There can be no doubt that if the Government of India had taken action against Sir Michæl O'Dwyer, General Dyer, and other persons connected with the Punjab atrocities, Mahatma Gandhi, a confirmed cooperator that he was, would not have been forced into the path of non-cooperation, and the whole subsequent history of India would have been different. We can therefore say with Surendranath Bannerjea that the Rowlatt Act was the parent of Non-Cooperation.

Khilafat.—The second issue which tended in the same direction and contributed to the change in his attitude towards the Government of India was the Khilafat question. During the Great War the Indian Mohammedans became uneasy at the policy the British Government might adopt in regard to Turkey when the time for the discussion of peace terms came. The British Prime Minister assauged their feelings by declaring in the course of a speech that Great Britain would not pursue a vindictive policy and would not deprive Turkey of the rich and renowned lands of Asia Minor and Thrace. At the end of the War, however, it became clear that the British Government did not mean to keep the pledge and that Turkey would be completely dismembered. A deputation was sent to England in March 1920 to plead the cause of Turkey, but it failed to achieve anything despite the best efforts of Mr. Montagu. As a result of the armistice terms, Turkey was dis-membered ; Thrace was presented to Greece and both Great Britain and France divided the Asiatic portions of the Turkish Empire among themselves in the guise of mandates. The Sultan became a virtual prisoner in the hands of the Allied High Commission. This greatly agitated the Indian Muslims because it deprived the Sultan of Turkey, who was the head of the Islamic Church or Khalifa of all the Faithful, of a part of his temporal power. They therefore started the Khilafat movement with the object of restoring to their Khalifa or Head of the Islamic Church the temporal power which he enjoyed as the Sultan of Turkey before the Great War. They demanded that Asia Minor and Thrace should be restored to Turkey and the suzerainty of the Sultan over the holy places reco-

gnised. Since there was no possibility of their taking up arms against the victorious British Government, they accepted the advice of Mahatma Gandhi and decided to non-cooperate with the British Government. The non-voilent non-cooperation movement was thus started with the dual object of redressing the Punjab and Khilafat wrongs. Its objective was later broadened by the inclusion of Swaraj. The Muslims headed by Maulana Mohammad Ali and Maulana Shaukat Ali sided with Mahatma Gandhi, and the country witnessed a great but temporary wave of Hindu-Muslim Unity.

Congress accepts Non-Cooperation.—Mahatma Gandhi placed his scheme of withdrawing all support to the Government until the wrong done to the Punjab was redressed and the question of Khilafat solved to the satisfaction of the Indian Muslims, at the special session of the Congress held at Calcutta in September, 1920, under the presidentship of Lala Lajpat Rai. This session was attended by a very large number of Muslim delegates. The resolution on non-cooperation was moved by Mahatmaji himself. He was supported by the Ali Brothers and Pundit Motilal Nehru. The opposition was led by C. R. Dass, Pundit Madan Mohan Malaviya and Mrs. Annie Besant. Lokamanya Tilak, who died shortly before the special session, liked the programme but had his doubts about the capacity of his countrymen to stand the suffering it involved. He would have supported it enthusiastically as it succeeded in winning popular support. The resolution was carried by a large majority ; 1855 voted for it and 873 against. In as much as the adoption of this famous resolution marks the beginning of a new phase in Congress policy and programme, it deserves to be quoted in full. It ran as follows :

'In view of the fact that on the Khilafat question both the Indian and Imperial Governments have signally failed in their duty towards the Musalmans of India and the Prime Minister has deliberately broken his pledged word given to them, and that it is the duty of every non-Muslim Indian in every legitimate manner to assist his Musalman brother in his attempts to remove the religious calamity that has overtaken him ; and in view of the fact that, in the matter of the events of April, 1919, both the said Governments have grossly neglected or failed to protect the innocent people of the Punjab and punish officers guilty of unsoldierly and barbarous behaviour towards them, and have exonerated Sir Michæl O'Dwyer, who proved himself directly responsible for most of the official crimes and also callous to

the sufferings of the people placed under his administration ; and in view of the fact that the debate in the House of Commons and specially in the House of Lords, betrayed a woeful lack of sympathy with the people of India and showed virtual support of the systematic terrorism and frightfulness adopted in the Punjab ; and that the latest Viceregal pronouncement is proof of the entire absence of repentance in the matters of the Khilafat and the Punjab, this Congress is of opinion that there can be no contentment in India without redress of these two wrongs, and that the only effectual means to vindicate national honour and to prevent a repetition of similar wrongs in future is the establishment of Swaraj.

'This Congress is further of opinion that there is no course left open for the people of India but to approve of and adopt the policy of progressive, non-violent Non-cooperation, until the said wrongs are righted and Swaraj is established.

'And in as much as a beginning should be made by the classes who have hitherto moulded and represented public opinion ; and in as much as Government consolidates its powers through titles and honours bestowed on the people, through schools controlled by it, through its law courts and its Legislative Councils, and in as much as it is desirable, in the present state of the movement, to take the minimum risk and to call for the least sacrifice compatible with the attainment of the desired object, this Congress earnestly advises :

'(*a*) Surrender of titles and honorary offices and resignation from nominated posts in local bodies.

'(*b*) Refusal to attend Government levees, Durbars and other official and semi-official functions held by Government officials, or in their honour.

'(*c*) Gradual withdrawal of children from schools and colleges, establishment of national schools and colleges in the various provinces.

'(*d*) Gradual boycott of British courts by lawyers and litigants and establishment of private arbitration courts by them for the settlement of private disputes.

'(*e*) Refusal on the part of the military, clerical and labouring classes to offer themselves as recruits for service in Mesopotamia.

'(*f*) Withdrawal by candidates from election to the reformed Councils and refusal on the part of the voters to vote for any

candidate who may, despite the Congress advice, offer himself for election.

'(g) Boycott of foreign goods.

'And in as much as the Non-cooperation movement has been conceived as a measure of discipline and self-sacrifice, without which no nation can make real progress, and an opportunity should be given in the first state of Non-cooperation to every man, woman and child for such discipline and self-sacrifice, this Congress advises the adoption of *Swadeshi* in cotton piece-goods on a vast scale; and in as much as the existing mills of India, with indigenous capital and control do not manufacture sufficient yarn and sufficient cloth for the requirements of the nation, and are not likely to do so for a long time to come, this Congress advises immediately stimulation of further manufacture on a large scale, by means of reviving hand-spinning in every home, and hand-weaving on the part of millions of the weavers who have abandoned their ancient and honourable calling for want of encouragement.'

This resolution came up for discussion at the regular annual session held at Nagpur in December, 1920. As the opposition of Mr. C. R. Das and his followers was mainly based on the proposal to boycott the legislatures, and the elections to the new Councils had already been held a month earlier in November, Mahatmaji was able to win over the great Bengal leader to his side. Lala Lajpat Rai also withdrew his opposition and supported the resolution. Pandit Malaviya, Mrs. Besant and Messers Jinnah and Pal however maintained their opposition to it. It was ratified by the Congress almost unanimously.

Besides ratifying the Calcutta resolution on Non-Cooperation the Nagpur session made two vital changes in the Congress Constitution and effected a thorough overhauling of its organisation. Till then the goal of the Congress had been Self-Government within the British Empire. This was not approved of by those Congressman who objected to remain within the Empire and wanted severance of the British connection. To accommodate them the goal was declared to be Swaraj. It was left to each individual to interpret Swaraj in his own way. Mahatmaji interpreted it to mean Swaraj within the Empire if possible, and outside if necessary. A change was also made as regards the methods by which Swaraj was to be achieved. The Congress was not to be limited in the future to constitutional

means only as it was in the past, it could adopt *all peaceful and leqitimate means.* This change was effected to enable Congress to resort to non-payment of taxes, etc., which could not be regarded as *constitutional.* The change in the goal and the method was a compromise between the right-wingers like Pandit Malaviya and Mr. Jinnah and the left-wingers who wanted complete independence to be achieved by all possible means. The Nagpur session was thus a triumph for Mahatmaji. It may be mentioned that it was attended by two Labour M. P.'s, Col. Wedgwood and Mr. Ben Spoor. We need not refer to the reorganisation of the machinery of the Congress effected at Nagpur.

The Non-Cooperation Movement— After the special session held at Calcutta had passed the resolution on Non-Cooperation, Mahatmaji undertook a tour of the whole country with a view to whipping up the enthusiasm of the people, popularising his scheme of the boycott of titles, educational institiutions, law courts and legislatures, and putting the Congress organisation in good order. He set the ball rolling by returning his own medals to the Governor General. He asked the lawyers to give up their practice in the law courts and the people not to take their cases to the latter. The students were asked to leave the educational institutions and participate in the struggle or to join the national institutions which were coming into existence. The movement was a greater success than was expected. Hundreds of persons renounced their titles and honours, and many times more the number gave up their practice at the law courts. Among those who renounced their professional work to devote their whole time to the country were C. R. Dass in Bengal, Moti Lal Nehru and his son Jawahar Lal Nehru in the U. P., Lajpat Rai in the Punjab, Vitthalbhai and Vallabhbhai Patel in Gujrat, N. C. Kelkar in Poona, Dr. Moonje and Abhayanker in C. P.. Rajendra Prasad in Bihar, and Rajagopalachari, Satyamurti and Prakasham in the Madras Presidency. Maulanas Mohammad Ali and Shaukat Ali, Dr. Ansari, and Maulana Abul Kalam Azad were among the prominent Muslim leaders who plunged into the struggle. Mr. Jinnah, Mrs. Besant and Mr. B. C. Pal left the Congress because they radically disagreed with the policy and programme of non-cooperation. The Liberals had already left the Congress ; there could be no question of their joining the movement.

The boycott of the reformed legislatures was a great success.

No Congressman offered himself as a candidate for election and the number of voters who went to the polls to vote for one candidate or the other was very small. Thousands of students left their schools and colleges. For their benefit several national educational institutions came into existence, the chief of which were the following: The Bihar Vidyapeth, the Kashi Vidyapeth, the Bengal National University, the Tilak Vidyapeth, and the National Muslim University at Aligarh. Swadeshi got great impetus, and handspinning was revived. Khaddar became the national wear. Mahatmaji appealed to the country for the Tilak Swaraj Fund and got a crore and a few lakhs of rupees in a short time. The movement was thus progressing satisfactorily. In July Mahatmaji added a new item to the programme; namely, the boycott of foreign cloth. It was launched with bon-fires of foreign cloth in almost every town and city of the country. In November, 1921, the Prince of Wales visited India, and the Congress decided to boycott his visit. A serious riot broke out in Bombay on the occasion of his landing in the city. Wherever the Prince went, he was greeted with *hartals* which the police wanted to break with lathis. All the important leaders with the exception of Mahatma Gandhi were arrested by the Government and sent behind prison bars.

The Prince of Wales was due to arrive at Calcutta on December 24, 1922. Lord Reading, who had succeeded Lord Chelmsford as the Governor General, reached there a week earlier. As the situation in the country was getting out of hand from the official point of view and the Government did not want to use ruthless force to suppress it on account of the presence of the Prince of Wales, Lord Reading was anxious for a settlement with the Congress. The events taking place outside India which made the Moslem world unite against Great Britain also influenced the Government in the same direction. Pandit Madan Mohad Malaviya acted as the intermediary between Lord Reading and Shri C. R. Das who was in jail. But the negotiations fell through on the question of the release of the Ali Brothers who were sentenced to two years' imprisonment in connection with a speech at Karachi which had no connection with the Non-Cooperation move ment. Mahatmaji would not accept any settlement which did not include their release, and the Governor General did not want to release them. Deshbandu Das got much annoyed and angry at the loss of this opportunity of arriving at a settlement. Lord Reading

had agreed to call a Round Table Conference of the representatives of the Government of India and the Congress to settle the future constitution of India.

The Suspension of Non-Cooperation.— Mahatma Gandhi was thinking of organising a no-tax campaign in Bardoli taluka in Gujrat as the final stage in his movement. He wrote a letter to Lord Reading on February 1, 1922, that he would start his no-tax campaign unless Government gave proof of a change of heart withi : seven days. But before the period of seven days expired, there was a serious case of mob violence at Chauri Chaura in U. P. where a mob led by Congressmen burnt a police station and killed a number of policemen on February 4. There had been acts of violence previous to the Chauri Chaura incident also ; namely, in Malabar where the Moplahs had committed brutalities on Hindus, and at Bombay when the Prince of Wales landed there. Mahatmaji saw that the movement was losing its non-violent character ; and horrified at the spectacle of growing violence on the part of the people, he called a meeting of the Working Committee and decided to suspend the movement including the defiance of government laws and non-payment of taxes, much to the disappointment and chagrin of the rank and file of the Congress. He asked the country to take to the constructive programme which included the promotion of hand-spinning and weaving, removal of untouchability, promotion of communal amity and temperance. Lord Reading saw his opportunity and arrested Mahatma Gandhi at a time when there was depression in the country and there was no danger of his arrest being followed by country-wide disorder and unrest as happened in 1919. He was sentenced to six years imprisonment by Mr. Broomfield in March, 1922.

Appraisal of the Movement.— The first non-cooperation movement thus failed in its objective. Mahatmaji had promised his countrymen Swaraj in one year. The year was over ; in place of Swaraj there was a sense of frustration in the country, and the leader of the movement was in jail. Nevertheless, the movement was not altogether barren of results. It raised the pitch of political agitation to a height never dreamt of before ; it made the Congress a mass movement and conveyed the message of Swaraj to the humbler strata of society. It shook the foundations of the British rule in the country. It was productive of some good in another way also. So long as the movement was active in the country, the bureaucracy was

anxious to secure the goodwill and cooperation of the Moderates. It worked the Montford Reforms in the proper spirit. With the suspension of the movement and the resignation of Mr. Montagu in England, it changed its attitude and the spirit of working the Reforms. We may sum up the achievements of 1921 in the following words of Shri Subhas Chandra Bose : 'The year 1921 undoubtedly gave the country a highly organised party-organisation. Before that the Congress was a constitutional party and mainly a talking body. The Mahatma not only gave it a new constitution and a nation-wide basis— but what is more important converted it into a revolutionary organisation ...... Uniform slogans were repeated everywhere and a uniform policy and ideology gained currency from one end of India to the other. The English language lost its importance and the Congress adopted Hindi as the *lingua franca* for the whole country ... Khadi became the official uniform for all Congressmen.'*

The Birth of the Swaraj Party.— As has been pointed out above, the decision of Mahatma Gandhi to suspend all defiance of government laws and ordinances and concentrate attention and energy upon the constructive programme caused a good deal of resentment among the leaders and the rank and file of the Congress. The dissatisfaction against this decision found expression in the formation of the Swaraj Party under the joint leadership of C. R. Das and Motilal Nehru. The idea was conceived by C. R. Das and discussed by him with his colleagues in the Alipur Central Jail. He wanted a change in tactics for rousing public enthusiasm once again. He advocated entry into the legislative councils with the intention of offering obstruction from within. The boycott of legislatures as conceived by the Calcutta Congress had proved a failure in the sense that, though Congressmen had kept away from them, others had entered and they were functioning. Instead of helping the Congressmen in their non-cooperation movement, the Liberals who had been returned to them had lent support to the Government in its efforts to suppress it. A vantage point had thus been lost in the struggle for freedom. He therefore recommended that the ban on Councils be lifted and Congressmen allowed to contest the elections and prevent undesirables from going there and doing mischief. Participation in the elections which were due in 1923 would provide Congress an

* *The Indian Struggle*, pages 103–04.

opportunity to carry on its propaganda all over the country.

On release from jail Deshbandhu Das carried on vigorous propaganda in favour of his programme of council entry. He made it clear that the new policy did not mean any abandonment or suspension of the other activities of the Congress ; 'it simply meant an extension of those activities to include the capture of elected seats in the legislatures and all public bodies.'* The idea was opposed by the orthodox followers of Gandhijee who were headed by C. Rajagopalachari, and came to be known as 'No-changers'. The question was discussed at the Gaya session of the Congress in 1922 and defeated inspite of the fact that Deshbandhu Das was the President of the session. Pundit Motilal Nehru thereupon announced that they would form a new party to be known as the Swaraj Party. Das and Nehru toiled hard, and after vigorous propaganda the first Swarajist Conference was held at Allahabad in March, 1923. The constitution of the Swaraj Party and its plan of work were drawn up. On account of the growing bitterness between the No-changers and the Swarajists in some provinces it was decided to hold a special session of the Congress at Delhi in September, 1923. A compromise was arrived at there according to which Congressmen were permitted to take part in the elections to the legislatures which were about to be held and carry on a 'uniform, continuous and constant opposition' to the Governrnment from within them. The Congress as a body was to have no responsibility in the matter. This meant a triumph of the Swarajists ; they asked for nothing more than the lifting of the ban on council entry which the compromise resnlution eonceded. They won their point after nine months ot hard labour in the teeth ef opposition from the No-changers. As the general elections were quite near, they had to put in arduous work to win them. Under the able leadership of Deshbandhu Das and Pundit Motilal Nehru they achieved remarkable success at the polls. They secured an almost absolute majority in the C. P. and Bengal. In other provinces they constituted the single largest party but never commanded sufficient votes to offer 'uniform, continuous and consistent' opposition. By their tactics they made it impossible for the ministers to function in the C. P. and Bengal. but achieved little success elsewhere. In the Central Legislative Assembly they secured 45 of the elected seats, and with the help of the votes of the Independent members

* Subhas Chandra Bose : *The Indian Struggle*, page 114.

could sometimes inflict defeat on the Government. But in view of the special powers of veto and certification possessed by the Governor General they could not create any deadlock or otherwise obstruct the work of the Government. They did succeed in throwing out the budget several times, but on each occasion it was certified by the Governor General. Sometimes they staged walk-out and left the Assembly, but returned again. In short, except in the C. P. and Bengal where Dyarchy had to be suspended, the tactics of the Swarajists achieved little success.

Reference must, however, be made to one important resolution which was moved by Pundit Motilal Nehru on February 8, 1924, and passed by the Assembly with the combined votes of the Swarajists and the Independents against the opposition of the Government. It ran as follows : 'This Assembly recommends to the Governor-General-in-Council to take steps to have the Government of India Act revised with a view to establish full responsible government for India, and for the said purpose : (a) to summon at an early date representatives to a Round Table Conference to recommend, with due regard for the protection of the rights and interests of the important minorities, a constitution for India ; and (b) after dissolving the Central Legislature, to place the said scheme before a newly elected Indian Legislature, and submit the same to the British Parliament to be embodied in a statute.' Replying to the motion on behalf of the Government of India, Sir Malcolm Hailey promised an investigation into the difficulties inherent in or arising from the working of dyarchy and to suggest ways and means to remedy them consistently with the structure, purpose and policy of the Government of India Act of 1919. This reply was disappointing, and by way of protest, the Assembly threw out some of the demands for grants and even refused leave to introduce the Finance Bill. The refused grants were restored and the Finance Bill certified by the Governor General. After the Assembly was over, the Government of India appointed a Reforms Enquiry Committee presided over by its Home Member, Sir Alexander Muddiman. The Swarajists boycotted it, but men like Mr. Jinnah and Sir Tej Bahadur Sapru served on it as members. It is not necessary to make further reference to the tactics employed by the Swarajists in the pursuit of their policy of offering 'uniform, continuous and consistent opposition' to the Government.

Doubts were expressed in several quarters about the soundness

and practicability of the Swarajist policy of obstruction from within the legislatures. Congressmen like Shri Bepin Chandra Pal and Independents like Mr. Joseph Baptista were convinced of the futility of purely obstructionist tactics. The Liberals were, of course, opposed to the idea ; Surendranath Bannerjea described it as futile and meaningless. There is no doubt that there was hardly any room for purely obstructionist tactics to achieve any solid results in the Centre or in the administration of the reserved subjects in the Provinces. The Swarajists did succeed in making dyarchy unworkable in two provinces, but this did not lead the country anywhere near its goal of Swaraj. The characterisation of the Swarajist tactics as given by Dr. Zacharias seems to be sound. He says that they 'were in the position of people who wanted to keep their cake and eat it at the same time. They conciderced it necessary ...... to talk of extremism, and yet were resolved to essay parliamentarism. As a consequence the Swarajists were driven to a course of quibbling, as to when cooperation was non-cooperation.'*

However illogical and unpracticable the Swarajist policy of obstruction might have seemed to its opponents then, and however unsound and meaningless it may appear to us at the present, it served a very useful purpose at that time. Its authors never expected it to yield rich results or to take the country towards its goal ; they recommended it with a view to the creation of an atmosphere of resistance to the Government without which the Government could never be made to yield to popular demands. It was successful to a large extent in whipping up the enthusiasm of the people which had suffered a great set-back on account of the suspension of the non-cooperation movement. While the Congress concentrated attention on the constructive programme, the Swarajists looked after the political affairs of the country and thus rendered a great service to the nation. But partly as a result of the wearing off of the novelty of its programme, and partly on account of the most untimely death of its great leader, Deshbandhu Das, in June, 1925, and the dissensions which developed within the party, it suffered a decline in prestige, and did not fare so well in the general elections of 1926 as in those of 1923. The Government of Bengal also contributed to its decline by arresting a large number of its influential members and detaining them in jail without trial. It should also be

* Zacharias : *Renascent India*, Page 240.

remembered that some of its members accepted offices under the Government.

The Release of Mahatma Gandhi.— While the Swaraj Party was busy organising itself and gathering strength in the teeth of opposition from the orthodox followers of Mahatmaji, he himself was serving his six years' term in the Poona jail. He was taken ill and removed to the Sasoon Hospital at Poona where he was operated upon for appendicitis. The whole of India demanded his release, but so stiff was the attitude of Lord Reading that he made no reference to his illness or to the demand for his release in his opening address to the Central Legislature. However, he was released on February 5, 1924, the very day when the Assembly was to discuss a private motion for his release. It would have been more graceful on the part of Government to have released him in response to the demand of the Assembly, but Lord Reading did not believe in grace ; he wanted to return non-cooperation for then no-cooperation of the Swarajists.

Pandit Motilal Nehru saw Mahatmaji at Juhu where he was convalescing after his release and sought to secure his support for the Swarajist policy. He did not succeed in his mission, but an understanding was arrived at between Mahatmaji and the leaders of the Swaraj Party according to which, while Mahatmaji was to devote himself to the cause of Khadi and communal harmony, the Swarajists were to take charge of the political activities of the nation. Each section was to work independently of the other. Some persons interpreted it to mean the retirement of Mahatma Gandhi from politics and began to say that his influence over the people had waned. Such a view was wrong. Mahatmaji was preparing the country for civil disobedience movement through his constructive programme ; he never retired from politics and his influence over the masses kept on increasing, as later events clearly demonstrated. He was merely biding his time.

Reference should also be made to the recrudescence of communal troubles in 1923 and 1924. Hindu-Muslim riots broke out at several places and increased communal tension. The Muslims started the movement for Ṭablig and Tanzim and the Hindus their Shuddhi and Sanghatan movement. Mahatmaji felt much concerned and convened a Unity Conference. It met at Delhi in September, 1924, and was attended by prominent Hindu and Muslim leaders and

a few others like Mr. Arthur Moore, editor of the *Statesman*, and Dr. Westcott, the Metropolitan of India. While it was holding its deliberations, Mahatmaji went on a three weeks' fast as a penance for the misdeeds of members of both the communities. The Unity Conference passed a resolution unanimously for promoting communal harmony, but not much came out of it.

Somewhat earlier, Mustafa Kemal Pasha who had successfully defeated the enemies of Turkey, and become the President of the Turkish Republic, abolished the Khilafat altogether. This took the wind out of the sails of the Khilafat movement in India. The various Khilafat Committees went out of existence and a large number of Muslims who had taken active part in their work now drifted away from the Congress and were absorbed into reactionary organisations. The Muslim League which had been eclipsed by the Khilafat moyement now came to life and became active. It meant the re-emergence of Muslim communalism which was in abeyance during the Non-cooperation mevement.

There is not much to chronicle about the national movement during 1925, 1926 and 1927. Mahatmaji was busy with the constructive programme and made an effort to unite all parties on its basis, but the Liberals would have nothing to do with Khadi work. Mrs. Annie Besant sought Congress help for her Commonwealth of India Bill which she wanted to be introduced in Parliament as a private bill, but did not succeed in her mission. In 1925 the Government of India appointed the Skeen Commission to enquire into the possibilities of a rapid Indianisation of the Army in India. Pandit Motilal Nehru accepted a seat on this Commission inspite of the Swarajist policy of uniform obstruction. The Skeen Commission submitted a unanimous report which provided for the complete Indianisation of one half of the Indian Army within twenty-five years. Its recommendations were not given effect to by the Government on one ground or another ; it refused to find funds for the purpose. This made even the Liberals despair of attaining Swaraj with the help and cooperation of the British people.

The Simon Commission.— The Swaraj Party was formed at a crucial juncture in the political history of our country. It rendered great service by keeping up the spirit of resistance to the authorities and whipping up the enthusiasm of the people. But after the novelty of its tactics had worn off and the Council Front it had ended in

something like a stalemate, there was a great political slump in the country. The death of Deshbandhu Das was followed by an all-round depression ; there was no exciting programme before the nation. At this juncture the British Government committed a great blunder which provided a splendid opportunity to the politicians for a countrywide agitation. This was the appointment of the all-white Simon Commission.

In November, 1927, the Governor General, Lord Irwin, announced the appointment of the Indian Statutory Commission under Section 84 (*a*) of the Government of India Act. It provided for the review of the political situation in India every ten years. In the ordinary course the Statutory Commission should have been appointed in 1931, ten years after the inauguration of the Reforms in 1921. But the Tory Government of Great Britain did not like to leave its appointment to the successor government which was likely to be Labour, and wanted to dispose of the Indian question while it was in power. The Conservatives were afraid that the successor Labour Government might make further concessions to the Indian demand for Swaraj. There was nothing in the appointment of the Statutory Commission a few years before the proper date to annoy or agitate the Indians. What they resented most and what led to a country-wide agitation against it was its composition. Instead of appointing a mixed Commission on which Indians and Britishers should serve jointly under a Britsh member of Parliament as Chairman, Lord Birkenhead, the Secretary of State for India, nominated a Commission of seven members drawn exclusively from the British race. Though it was a body which was to determine the shape and form of the future constitution of India, Indians were deliberately kept out of it. Lord Birkenhead had been previously informed that to appoint a purely British Commission on a subject which so vitally and intimately affected India was to invite trouble and disaster. But he paid no heed to such warnings, and rode roughshod over national sentiment. He sought to justify the exclusion of Indians from the Commission on the ground that, because of the numerous hostile sections of opinion in the country, it was impossible for him to choose some Indians without offending others. He held the internal division among Indians as the reason for their exclusion.

This announcement evoked a chorus of condemnation not only from Congressmen but also from Liberals and other sections whose

cooperation the British Government had almost taken for granted. That the Congrss would boycott the Simon Commission— the Indian Statutory Commission was popularly know by this name because Sir John Simon was its Chairman— was taken for granted ; this was the natural consequence of its insistence on the principle of self-determination which was negatived by its composition. But the British statesmen were not prepared for its boycott by the Indian Liberals ; their decision to have nothing to do with the Simon Commission came to them as a great and unpleasant surprise. The *Leader* of Allahabad regarded the Statutory Commission as both an injury and an insult to India, as a calculated affront to Indian opinion, to Indian intelligence as well as to Indian self-respect. Sir Taj Bahadur Sapru regarded the exclusion of Indians as 'a deliberate insult to the people of India, as not only does it definitely assign to them a position of inferority, but what is worse, it denies to them the right to participate in the determination of the constitution of their own country.' The result was that wherever the Commission went, it was greeted with hartals, black flag demonstrations and cries of 'Simon, go back.' The Government tried to organise counter-demonstrations, but it did not succeed. It resorted to repression through the police. At several places the police tried to disperse the demonstrators by the free use of lathis and batons. At Lahore the police charged the peaceful demonstrators headed by Lala Lajpat Rai. A white police official aimed his lathi blow at his chest which inflicted a permanent injury upon his heart as a result of which the great patriot died a few weeks later. This was a great insult to Indian nationhood, and the revolutionaries tried to avenge it by the murder of a police official whom they mistook to be the person who gave the lathi blow to Lala Lajpat Rai. At Lucknow leaders like Pandit Jawahar Lal Nehru and Pandit Govind Ballabh Pant were treated in a similar way. It is not necessary to go into details. What is important to bear in mind is the fact that all sections of Indian opinion were unanimous in their firm decision to have nothing to do with the Simon Commission. Only a few loyalists and communalists could be induced by the Government to appear before the Commission and give evidence. In several ways, the arrival of the Commission was a godsend.

The Simon Report.— Inspite of the hostile reception given to it, the Commission did its work thoroughly. It visited India twice,

and it took it more than two years to prepare its report which was published in May, 1930. Although the Report was very unsatisfactory and disappointing from the point of view of India, it must be admitted that it bore the mark of great industry. One can easily endorse the judgment of Coupland that it was by far 'the most complete study of a Indian problem that had yet been made', and that it 'added another work of first-rate value to the library of Political Science.' 'There is also throughout a courtesy of tone towards Indians generally that makes the Report a welcome change from the cold attitude towards the human side of life which Blue Books often represent. Immense pains have been taken to avoid the assumption of a dominating racial attitude.'* Its great merit was that it emphasised and discussed all the main difficuities and problems of the Indian situation, including the question of defence and its bearing on British control, the racial and communal dissensions, and the position of Indian States in a future constitutional reconstruction. Its great demerit was that it failed to take note of the radical change that had been brought about by the non-violent non-cooperation movement as well as the aspirations of the people generated by it. It dealt more 'with that old India which I knew when I first went out nearly thirty years ago, before the national movement had started ; it shows little understanding of the Young India which we see rising to-day on the tide of national upheavel.† The Commission failed to see the new India that was rising because its members never came into contact with the people. The India they saw was the official India.

After a careful and thorough survey of the conditions in India the Commission came to the conclusion that, partly on account of the inherent weakness of dyarchy and partly because of communal antagonism, the experiment in self-government introduced by the Act of 1919 did not succeed ; the 'faith which had prompted the adoption of the parliamentary system had not been justified.' ‡ Rather than recommend that the attempt to introduce parliamentary institutions in India be abandoned, the Commission proposed that full responsible government in the provinces should be intorduced at one stroke. It made this recommendation because the members

* Andrews : *India and the Simon Commission, page* 39.

† Andrews : *Ibid*, page 40.

‡ Coupland : *India, A Restatement*, page 131.

were convinced that to withhold responsibility for the maintenance of law and order was to negate responsible government. The Commission therefore recommended that all provincial subjects, law and order included, should be placed under the control of popular ministers. But they also felt that safeguards were equally necessary. Along with provincial autonomy they recommended (*i*) the grant of special powers to the Governor which might enable him to override the advice of his popular ministers in vital matters, and (*ii*) the retention of complete control of the Government of India over the provincial governments. The provincial legislatures were to be enlarged and the franchise was to be lowered. Elections to the provincial legislatures were to be direct, and the system of separate communal representation was to be retained.

In regard to the Central Government the Commission examined the popular demand for responsibility but negatived it ; it also rejected the idea of dyarchy at the Centre. It arrived at these conclusions because it wanted to preserve the unity of administration and its freedom from domination by the legislature. The Commission, however, did not contemplate that irresponsibility at the Centre was to continue indefinitely ; it looked forward to a time when it would be possible to introduce responsibility at the Centre, provided the question of defence could be satisfactorily solved. It also envisaged a federal constitution at a distant future which would unite the British Indian Provinces and the Indian States in a common polity. It recommended that the lower house of the federal legislature should be indirectly elected. Pending the creation of an Indian Federation, it recommended the establishment of the Council of Greater India representing both British India and the Indian States which could be consulted on all matters of common concern.

Such were the main recommendations of the Simon Commission. To say nothing of Dominion Status, it did not give even responsibility at the Centre. Provincial autonomy which it recommended was limited by the special powers of the Governer and subjection to the control of the Central Government, The Indian Army was to be put under the control of His Majesty's Government, though its cost was to be borne by the Indian tax-payer. India had demanded bread ; she was offered stones instead. Little wonder then, that it excited little enthusiasm and was received with a chorus of condemnation. The observation of Sir Sivaswamy Aiyer that it

'should be placed on the scrap-heap' may be taken as the typical Indian attitude to it. It was cold-shouldered even by the Labour Government of Great Britain and received little attention at the hands of the first R. T. C. But it was revived by Sir Samuel Hoare as the Secretary of State for India under a predominantly Conservative Government, and many of its recommendations found their way into the Government of India Act of 1935.

The Nehru Report.— The appointment of the all-white Simon Commission had another and happy repercussion on Indian politics. In the course of his speech on the appointment of the Statutory Commission Lord Birkenhead, while trying to justify the exclusion of Indians from it, had challenged Indians to produce an agreed constitution and submit it to Parliament for consideration. He threw this challenge with the conviction that Indians could never agree among themselves. In the atmosphere created by the united opposition to the unwanted Simon Commission Indians accepted the challenge and organised an All Parties Conference which held its first sitting in February, 1928, even while the Commission was touring the country. The All Parties Conference wisely appointed a sub-committee presided over by Pundit Motilal Nehru to draft a constitution. Sir Tej Bahadur Sapru, Sir Ali Imam, Mr. M. S. Aney, Sardar Mangal Singh, Mr. Shuaib Qureshi, Mr. G. R. Pradhan, and Shri Subhash Chandra Bose were its members. The Committee produced a memorable report which has gone down to history as the Nehru Report. Dr. Zacharias describes it as 'a masterly and statesman-like report.' It considered the main constitutional problems facing the country with great acumen and insight, and laid down the general principles on which they were to be decided. Its recommendations were unanimous except in regard to the basis of the constitution. While the majority favoured Dominion Status, a minority pressed for complete national independence. The Report adopted a compromise. It accepted Dominion Status not merely as a distant goal, but as 'the next immediate step'. It however gave liberty of action to all those groups and parties which made complete independence their goal. Although it envisaged a future linking up of the Indian States with the rest of India in a federal polity, the Nehru Report confined itself to British India. It however stated that the new responsible government of India should exercise the same rights and discharge the same obligations towards the Indian

States till the formation of the Federation, as the then Government of British India did. For British India it recommended full responsible government on the lines of the self-governing Dominions. The executive power was vested in the King, but was to be exercised by the Governor General as his representative. The Governor General was to act on the advice of his popular ministers as the constitutional head of the State. The Cabinet was to be responsible to the legislature which was to be bicameral. The lower chamber of the central legislature was to be constituted on the basis of adult suffrage and direct election ; and the upper chamber was to be indirectly elected. The legislature was given the right to discuss and vote on the Army budget. The Indian Army was to be placed under the control of an Indian Minister responsible to the legislature. The public services also were to come under the control of the central legislature. Similarly, full responsible government was recommended for the provinces. The Report also laid down a scheme of distribution of powers between the Centre and the Provinces, and left residuary powers in the hands of the former. In regard to the vexed question of communal representation the Report made several wise recommendations. It proposed joint electorates with reservation of seats for the minorities on population basis with the right to contest additional seats. No seats were to be reserved for any community in the Punjab and Bengal. The Report also enumerated nineteen fundamental rights which were to be embodied in the Statute. It also recommended the creation of new provinces on linguistic basis with a view to the 'balancing of Muslim-majority Provinces against Hindu-majority Provinces.' 'The Nehru Report deserves to be read and studied in all its details, as it sheds light on every subject it touches and displays a practical common sense, which never loses itself in doctrinaire utopias, but which equally spurns to shelter itself behind the enunciation of mere platitudes.'*

Mahatma resumes Congress Leadership.— The Nehru Report was adopted unanimously by the All Parties Conference at Lucknow in August, 1928. But when it came up for ratification before the various bodies which were represented on the All Parties Conference, difficulties arose. Several bodies began to examine it from the point of view of narrow communalism. The Muslim League was divided on the issue. One section, composed of the Nationalist Muslims like

* **Zacharias** ; *ibid*, **page** 251–52.

Dr. Ansari, Hakim Ajmal Khan and Maulana Azad, favoured its adoption in its entirety ; another section led by Sir Mohammad Shafi was for its rejection and cooperation with the Simon Commission ; while the third led by Mr. Jinnah pressed for several vital amendments which destroyed its organic character. The Muslim Conference claimed on behalf of the Indian Muslims separate electorates, weightage, and due share in the central and provincial cabinets. It also demanded that residuary powers should be vested in the provinces. Even the Indian National Congress was not unanimous in its support ; the younger section led by Jawahar Lal Nehru and Subhash Chandra Bose would accept it only on the basis of complete national independence. The older group led by Pandit Motilal Nehru was for its acceptance in toto. Pandit Motilal Nehru, who presided seemed to be fighting a losing battle at the Calcutta session on this question of Complete Independence *versus* Dominion Status. Mahatma Gandhi intervened and presented a compromise formula which accepted the Nehru Report in its entirety, provided effect was given to it by the British Parliament 'before the end of 1929. His resolution which was adopted by the Congress ran as follows :

'This Congress having considered the Constitution recommended by the All-Parties Committee's Report welcomes it as a great contibution towards the solution of India's political and communal problems and congratulates the Committee on the virtual unanimity of its recommendations ; and while, adhering to the resolution relating to Complete Independence passed at the Madras Congress, adopts the Constitution drawn up by the Committee as a great step in political advance, specially as it represents the largest measure of agreement attained among the important parties in the country.

'Subject to the exigencies of the political situation, this Congress will adopt the Constitution if it is accepted in its entirety by the British Parliament on or before the 31st of December, 1929, but in the event of its non-acceptance by the date or its earlier rejection, the Congress will organise a campaign of non-violent non-cooperation by advising the country to refuse taxation and in such other manner as may be decided upon.'

This marked the re-entry of Mahatma Gandhi into the active political life of the country and the probable revival of the non-violent non-cooperation movement which had been suspended in 1922. It is interesting to note that a little before the Congress session of 1928

the peasants of Bardoli had resorted to non-payment of taxes as a protest against the increment in the land revenue assessment under the leadership of Vallabhbhai Patel and won in the campaign. The remarkable way in which he led the agitation earned for him the title of Sardar.

Events during 1928-29.— The years 1928 and 1929 witnessed the rise of the Left Wing in the Congress— the passing of a resolution making Complete Independence the goal of the Congress at the Madras session held in 1927, and the strong opposition to the Nehru Report because of its adoption of Dominion Status are clear proofs of this growth— and an unprecedented awakening among the youths of the country. There were widespread strikes by labourers in the country ; *e. g.*, in the textile mills of Bombay, in the Jute mills of Calcutta, in the Iron and Steel industry at Jamshedpur. The strike in the cotton mills of Bombay was led by well-educated persons with strong communist leanings. This unnerved the Government, and at an opportune moment it made a sweep of communist leaders in the country and tried them for waging a conspiracy. The case is known as the Communist Conspiracy Case and was conducted at Meerut. It resulted in 27 persons being sentenced to various terms of imprisonment.

Lord Irwin's Proclamation.— Another event which deserves notice is the general election held in Great Britain in May 1929, as a result of which the Labour party came into office. But it did not command an absolute majority in the House of Commons ; it was in office but not in power. This fact had an important bearing on the development of the political situation in our country. Mr. Macdonald appointed Mr. Wedgwood Benn as the Secretary of State for India who lost no time in calling Lord Irwin, the Governor General, to London to discuss Indian affairs and 'to represent to His Majestty's Government the different standpoints of those who can speak for Indian political opinion.' Lord Irwin remained in London from June to October. On his return to India he issued a proclamation on October 31 on behalf of His Majesty's Government. It may be regarded as the response of the British Government to the resolution passed by the Calcutta Congress (which has been reproduced above) giving one year's time to the Government within which to accept the Nehru Report. The Proclamation ended with the following words : 'I am authorised on behalf of His Majesty's Government to state

clearly that in their judgment it is implicit in the declaration of 1917 that the natural issue of India's constitutional progress, as there contemplated, is the attainment of Dominion Status.' It also proposed to hold a Round Table Conference in London soon after the publication of the Simon Commission Report at which Indian delegates would sit with representatives of His Majesty's Government to discuss the Simon Report and other proposals put forward in connection with the Indian constitutional problem. The Conference was to be set up with the 'purpose of seeking the greatest possible measure of agreement for the final proposals which it would later be the duty of His Majesty's Government to submit to Parliament.'

The Proclamation was very cautiously worded; it did not anywhere promise the immediate grant of Dominion Status to India. One thing, however, was crystal clear : this was the fact that both Mr. Wedgwood Benn and Lord Irwin approached the Indian problem 'with a genuine desire of justice, an obvious honesty of purpose and a natural sense of equality', to use the words of Dr. Zacharias.

Within twenty-four hours of the Viceroy's announcement the leading politicians of India assembled at Delhi. The gathering was mixed ; it included members of the Congress Working Committee and non-Congress leaders like Sir Taj Bahadur Sapru. After close examination of the statement they issued a manifesto signed, among others, by Mahatma Gandhi, Pt. Motilal Nehru and Jawaharlal Nehru, Dr. Ansari, Pandit Malaviya, Sardar Patel, Dr. Moonje, Mrs. Annie Besant, Sir Tej Bahadur Sapru and the Rt. Hon. Srinivas Sastri. It expressed their appreciation of the sincerity underlying the declaration and of the desire of the British Government to placate Indian opinion, and also the hope that they would be able to tender their cooperation to His Majesty's Government in their efforts to evolve a scheme of Dominion Status for the country. The signatories also suggested certain steps including the release of political prisoners to ensure the success of the proposed Conference which they expected would meet, not to discuss when Dominion Status was to be established but to frame a scheme of Dominion constitution for India. The statement concluded with the following words: 'We hold it absolutely essential that the public should be made to feel that a new era has commenced from to-day. and that the new constitution is to be but a register of the facts. Lastly, we deem it as an essential factor for the success of the Conference that it should be convened as

expeditiously as possible.'

As has been shown above, the statement was influentially signed. The signatories included men like Mahatma Gandhi and the Nehrus, nationalist Muslims like Dr. Ansari, and liberals like Sir Tej Bahadur Sapru and the Rt. Hon. Srinivas Sastri. The only persons to oppose it were men like Subhas Chandra Bose and Srinivas Ayengar who belonged to the extreme left wing of the Congress and stood out for complete independence. Their opposition had little significance ; it was purely doctrinal in nature.

Complete Independence.— Inspite of the changed outlook of the Labour Government in relation to India and its desire to help her, there was no response from the Government to the Indian leader's statement. Political prisoners were not released and no clarification of the issues raised in the statement was forthcoming. Some well-meaning friends urged Lord Irwin to make a gesture before the Lahore Congress so that the leaders may not go to the session empty-handed. A meeting between the Viceroy and Mahatma Gandhi and Pt. Motilal Nehru was arranged. Messrs. Jinnah, Sapru and Vithalbhai Patel were also present on the occasion. It took place on 23rd December, 1929, at Delhi. After talking about the unfortunate attempt to blow up the train in which the Viceroy was returning to Delhi for the meeting, Mahatmajee enquired if the Viceroy could give them an assurance that the London Conference was being called to frame the Indian constitution on the Dominion basis. Lord Irwin could add nothing to the terms of the Declaration that 'the natural issue of India's constitutional progress is the attainment of Dominion Status.' He did not find himself in a position to extend an invitation to them to the Round Table Conference with any definite promise of Dominion Status. Mahatmaji and Motilalji returned to Lahore empty-handed.

Lord Irwin could not assure the Indian leaders that the Round Table Conference was being convened to frame the Indian constitution on the Dominion basis because of the determined opposition of Mr. Churchill, Lord Birkenhead, Lord Reading and other Tories, to the terms of the Viceroy's proclamation of October 31. Mr. Churchill described the idea of Dominion Status for India as a crime. The Labour party was in office but not in power in Great Britain ; it did not like to risk its office on the Indian issue. Its spokesmen therefore tried to conciliate the Tory diehards by temporising over

the issue of 'Dominion Status here and now'.

Mahatma Gandhi realised that the Labour Government was not strong enough to carry out its policy in regard to India, unless England could be convinced that there was no alternative for her but to concede the Indian demand. Moreover, he saw that the country was drifting to violent revolution, and that the only way to stave off the revolution was to start civil disobedience. He therefore moved a resolution at the Lahore session declaring Complete Independence for India as the goal of Congress and rejecting the Nehru Report in conformity with the resolution passed at Calcutta an year ago. The following are the important passages occurring in it: 'This Congress appreciates the efforts of the Viceroy towards a settlement of the national movement for Swaraj. The Congress, however, having considered all that has since happened and the result of the meeting between Mahatma Gandhi, Pandit Moti Lal Nehru and other leaders, and the Viceroy, is of opinion that nothing is to be gained in the existing circumstances by the Congress being represented at the proposed Round Table Conference. This Congress ... ... declanes that the word Swaraj in Article 1 of the Congress constitution shall mean Complete Independence ...... and hopes that all Congressmen will henceforth devote their exclusive attention to the attainment of Complete Independence for India ...... This Congress authorises the All India Congress Committee, whenever it deems fit, to launch upon a programme of civil disobedience including non-payment of taxes, whether in selected areas or therwise, and under such safeguards as it may consider necessary.' The stage was thus set ready for the second great national movement for the attainment of Swaraj. It was to be launched upon strictly non-violent grounds and under the leadership of Gandhijee.

Before describing the way in which the campaign of Civil Disobedience was launched, it seems desirable to refer briefly to a few important points. In the first place, it should be noted that there was considerable controversy and excitement over a clause in the resolution moved by Mahatma Gandhi which congratulated Lord Irwin on his providential escape when the attempt was made to blow up his train on the morning of Dec. 23. It was said that there was no room for such a clause in a political resolution. It was passed by a narrow majority on the insistence of Mahatmajee. Secondly, perhaps with a view to assuring all those persons who

had taken strong exception to the way in which the Non-Cooperation movement was suspended in 1922 because of the mob violence at Chauri Chaura, Mahatmajee wrote in his *Young India,* dated February 27, 1930, as follows : 'While every effort imaginable and possible should be made to restrain the forces of violence, civil disobedience once begun this time cannot be stopped and must not be stopped so long as there is a single civil resister left free or alive.' Thirdly, the political prisoners under trial in the Lahore Conspiracy case, headed by Sardar Bhagat Singh made a demand that they should be accorded better treatment than ordinary prisoners as they were political prisoners and under trial. They resorted to hunger strike in order to enforce their demands. The Government made no response. One of the prisoners, Jatindranath Dass, died as a result of the hunger strike on the 13th of September. The country gave him a great homage after his death. But Mahatma Gandhi did not refer to him at all in his weekly Young India.

The Civil Disobedience Movement.— Along with the resolution declaring Complete Independence for India as its goal, the Lahore Congress had also passed a resolution calling upon all Congress members to resign their seats in the various legislatures in the country. The Council Front created by Deshbandhu Dass in 1923 was thus demolished. The Congress could carry on the struggle on one front only at a time. Along with the campaign of civil disobedience there could be no place for Congressmen in the legislatures. Pandit Jawahar Lal Nehru, the President of the Lahore session, unfurled the flag of Independence on the midnight of December 31 on the banks of the Ravi in biting cold but in the midst of an enthusiastic and excited mammoth gathering.

The next step in the struggle was the celebration of January 26, as the Independence Day. On this day meetings were held in almost every town and village where the Independence pledge, approved by the Working Committee, was read and taken by millions of persons. It is too long to be reproduced here in full ; only its first and last paragraphs are given below. It began as under :

'We believe that it is the inalienable right of the Indian people, as of any other people, to have freedom and to enjoy the fruits of their toil and have the necessities of life so that they may have full opportunities of growth, We believe also that if any Government deprives the people of these rights and oppresses them, the people

have a further right to alter it or to abolish it. The British Government in India has not only deprived the Indian people of their freedom but has based itself on the exploitation of the masses, and has ruined India economically, politically, culturally and spiritually. We believe therefore that India must sever the British connection and attain Purna Swaraj or complete independence.'

And concluded with the following paragraph :

'We hold it to be a crime against man and God to submit any longer to a rule that has caused this fourfold disaster to our country. We recognise, however, that the most effective way of gaining our freedom is not through violence. We will therefore prepare ourselves by withdrawing, so far as we can, all voluntary association from the British Government, and will prepore for civil disobedience, including non-payment of taxes, We are convinced that if we can but withdraw our voluntary help and stop payment of taxes without doing violence even under provocation, the end of this inhuman rule is assured. We therefore hereby solemnly resolve to carry out the Congress instructions issued from time to time for the purpose of establishing Purna Swaraj.'

It may be mentioned that January 26 has been celebrated since than as the Independence Day. The substance of the pledge used to be repeated till India won her independence. Along with the 15th of August, it shall remain a memorable day in the national annals.

The reports from various parts of the country showed that the Independence Day was celebrated with great enthusiasm. The members of the various legislatures in the country had also tendered their resignations in obedience to the resolution passed at the Lahore session. The Congress Working Committee had also vested Mahatma Gandhi with full powers to conduct the civil disobedience campaign. The stage was thus set ready for the great and heroic struggle of 1930.

The next step was the despatch of a long letter by Mahatmaji to Lord Irwin. It was demanded by the ethical code of Satyagrah. In the course of it Mahatmaji explained why he was forced to resort to the extreme step of starting civil disobedience and informed Lord Irwin that he would start it by breaking the Salt law with a few of his associates from the Sabarmati Ashram, unless the Governor General promised redress of the evils mentioned in it. The letter was carried by an English friend of Mahatmaji, named Reginald Reynolds on the 11th of March, 1930. The Viceroy's reply was disappointing,

and so Mahatmaji announced his decision to start civil disobedience. He left the Ashram for Dandi on the 12th of March at the head of 79 members of his Asharm and students of the Vidya Pith of challenge and defy the might of the greatest empire the World has seen. At Dandi the salt law was to be broken by picking up salt at the sea-shore. The way to Dandi was to be covered on foot. This Dandi march has become historic ; Shri Subhas Chandra Bose compares it to Napoleon's march on Paris on his return from Elba, and to Mussolini's march on Rome with a view to the seizure of political power. The press gave the widest publicity to this epic march. The scenes that preceded, accompanied and followed it were so enthusiastic, magnificent and soul-stirring that they beggar descritpion. 'Never was the wave of patriotism so powerful in the hearts of mankind as it was on this occasion which is bound to go down to the chapters of history of India's national freedom as a great beginning of a great movement.' Thus wrote the *Bombay Chronicle* about the Dandi March.

The Government of India at first did not take the movement very seriously ; they did not expect the March to lead to any serious developments. The Anglo-Indian papers ridiculed the idea of salt satyagrah ; the *Stat sman* wrote in an editorial that Mahatma Gandhi could go on boiling sea-water till Dominion Status was attained. Mr. Brailsford, an English journalist, described the Dandi March as 'the kindergarten stage of revolution'. He smiled at 'the notion that the King-Emperor can be unseated by boiling sea-water in a kettle.' Such persons could not look at the moral aspect of the technical breach of salt law by Mahatma Gandhi on April 6, which happened to be the first day of the nat onal week celebrated to commemorate the Jalianwalabagh tragedy. It was a signal for the breach of the salt law all over the country in which hundreds of thousands of persons participated in thousands of towns and villages. At places where salt law could not be violated because of the absence of saline water or earth from which to prepare contraband salt, other laws were violated ; e. g., at Calcutta the Sedition law was broken by publicly reading seditious literature. In the C. P. forest laws were violated. Boycott of foreign cloth, boycott of British goods and picketing of liquor shops were begun on an extensive scale all over the country as parts of the campaign of civil disobedience. Mahatmaji gave permission to women also to participate in

the struggle and advised them to resort to liquor and foreign cloth shop picketing. This had a magic effect. Even women of orthodox and aristocratic families came forward and participated in the campaign. The way in which Indian women conducted themselves in the struggle was marvellous It extorted praise from all. Their energy and enthusiasm seemed to be greater than those of men even. Their emancipation began from the day they came out of the privacy of their homes to join the struggle. It was one very happy result of the Civil Disobedience campaign.

The movement seemed to be spreading like a regular prairie fire ; it set the whole country ablaze. The Government realized the seriousness of the situation, and adopted highly repressive measures to put it down. About half a dozen Ordinances were issued by Lord Irwin in order to cope with the situation. Arrest of leaders, workers and volunteers took place everywhere, and the Congress organisation was declared unlawful. Heavy fines and sentences of imprisonment became the order of the day. It is estimated that about sixty thousand men and women were placed behind the prison bars. The police resorted to free use of the *lathi*, and at places firing was resorted to disperse crowds and processions as a result of which hundreds lost their lives and a larger number were wounded. The use of brute force did not cow down the new India that had arisen ; the greater the violence used by the Government to crush the movement, the more momentum did it gain. Each province had its tale of woe to tell as a result of the ruthless repression on the part of the Governmeut. In Midnapore District a terrorist movement came into being for organising reprisals against officials. It is not necessary to describe further the events of those memorable and exciting days. The reports despatched to their respective papers by foreign correspondents and observers like Webb, Miller, George Solocombe and Brailsford bear eloquent testimony to the wonderful spirit exhibited by the people and the non-violent way in which they behaved under grave provocation. Mahatma Gandhi seemed to have infused new life into dead bones.

Before closing this very brief and inadequate account of the Civil Disobedience movement mention should be made of a few of its notable features. For a long time the initiative was with the people ; the Government did not take the offensive at the very outset. It was a great mistake on its part ; it let the movement

spread like wild fire. On subsequent occasions the Government took stern action from the very start. No detailed instructions were issued to the people as to how they were to conduct it. The main items of the programme were, of course, known to them ; and they were expected to remain non-violent. The people, however, revealed remarkable powers of organisation and of initiative and resourcefulness. When the Government made it impossible for the press to give publicity to the Congress activities, the people started distributing cyclostyled copies of news bulletins, and at places began to broadcast news. Some new institutions like Prabhat Pheris and Vanar Senas came into being. As one leader or dictator was arrested, whether at the all-India level, or at the provincial, district, or city level, there was a successor available to carry on the work. When Pandit Jawahar Lal was arrested, he named Pandit Moti Lal as his successor. Motilalji named Sardar Patel as his successor, and so the struggle went on. One of the most remarkable phenomena was the way in which Indian women helped the movement by organising the picketing of liquor and foreign cloth shops. Their contribution was tremendous. It is estimated that from Delhi alone about 1600 ladies were sent to jail for picketing. Their participation lent a moral weight to the boycott movement. Nobody, not even the great magician who wrought all this wonderful change, could have expected this splendid response on the part of Indian womanhood. Even small children below seven years of age played their own role as members of the news-sheet distributing squads and of Prabhat Pheris.

The Round Table Conference.— While the epic struggle between soul-force and naked brute force was going on in India and the people were displaying heroic courage in facing ruthless repression, the report of the Simon Commission was published. Inspite of great efforts made by the Government to boost it, it was still-born. Indeed, it could not be otherwise ; the Report miserably failed to take note of the changed mentality and spirit of the New India that had arisen; it was out of date even when it was published. 'It betrayed a monstrous lack of understanding, only equalled by a similar lack of sympathy.'* Nobody paid attention to its recommendations ;— a large measure of self-government in the provinces but autocracy at the centre. Even the Central Assembly from which all Congress

* Zacharias :*Renascte Inndia*. page 269.

members had resigned rejected its recommendations in toto. The Indian Liberals who had consented to take part in the London Conference, without any assurances that it would frame a Dominion Constitution for India, demanded that it should not form the basis of discussion in the Conference.

Meanwhile an enterprising journalist, George Solocombe, secured permission to interview Mahatma Gandhi in the Yervada Jail where he was interned along with Sardar Patel and Mrs. Sarojini Naidu, with a view to ascertaining from him the conditions on which he would be ready to call off the movement and thus prepare the way for Congress participation in the R. T. C. Mahatmaji told him that he could not call off the movement without a definite guarantee that the substance of independence would be conceded to him at the Conference. He laid down four points on whose satisfaction he would suspend the movement. Mr. Solocombe interviewed Pandit Motilal Nehru and Jawaharlal Nehru in the Naini Jail, and in consultation with them drafted the statement on the basis of which negotiations for a settlement between the Congress and the Government could take place. At a later stage Dr. Jayakar and Sir Tej Bahadur Sapru played the role of intermediaries, and attempted to bring about a settlement between them. The gulf which separated the two parties was, however, found to be unbridgeable ; the Congress continued its campaign and the Government its policy of ruthless repression, and the R. T. C. met at London on the 12th of November, 1930, without Congress representative on it. Of the 89 persons who participated in its deliberations 16 represented the three major political parties in the British Parliament, 16 represented Indian States, and 57 were delegates from British India. According to Dr. Pattabhi Sitarammaya the total strength of the R. T. C. was 86 out of whom 13 represented Great Britain, 16 Indian States and the rest British India. The British Indian Delegates were *nominated* by the Governor General of India who had also selected the 16 Princes to represent the States. He did not care to consult the central or the provincial legislatures. Nationalist Muslims were deliberately excluedd. This way of choosing the Indian delegation led Mr. Brailsford to remark that 'in St. James' Palace they did assemble Princes and Untouchables, Sikhs, Muslims, Hindus and Christians, and spokesmen of land-owners, trade unions, and chambers of commerce, but Mother India was not there.' This method of

choosing the delegates was bound to affect the working of the Conference. As later events showed, instead of pressing the demand for Indian freedom the various delegates stressed the claims of the different interests and communities to which they belonged. The question of the future of India was left to be decided by the British Government.

By staying away from the Conference and conducting the campaign of civil disobedience the Congress served the cause of the country in a better way than perhaps it could have done by joining it. It made the British Government and public realise the strength of public opinion behind the demand of the Congress for freedom. It had forged a sanction behind its demand which could not be ignored. The R. T. C. took note of this fact ; and after having accepted the federal principle as best suited to the needs and conditions of India, agreed to the introduction of full ministerial responsibility in the provinces and dyarchy in the centre, subject to certain reservations and safeguards during the period of transition. It concluded its session on the 19th of January, 1931. The British Prime Minister made the following declaration about the policy of His Majesty's Government in regard to the future constitution of India.

'The view of His Majesty's Government is that responsibility for the Government of India should be placed upon the Legislatures, Central and Provincial, with such provision as may be necessary, to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by the minorities to protect their liberties and rights.'

'In such statutory safeguards as may be made for the needs of the transitional period, it will be the primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India through the new Constitution to full responsibility for her own Government.'

He also added that if in the meantime 'there is response to the Viceroy's appeal from those engaged at present in Civil Disobedience, steps will be taken to enlist their services.'

Before proceeding to narrate the steps taken by the Government of India to enlist the cooperation of the Indian National Congress, it is desirable to throw some light on the question as to how it was

that the British Government agreed to the introduction of responsibility at the Centre to which the British Liberals not less than the Tories were uncompromisingly opposed. They were not prepared to go beyond the Simon Commission Report which left the autocracy at the Centre untouched.

It should be borne in mind that the Simon Commission Report envisaged a federal constitution for India at a future date in which British India and the Indian States would be partners. It, however, did not say anything about the time and the manner in which the Federation was to be brought into existence. When this question came up before the R. T. C., the Maharaja of Bikaner welcomed the idea of Federation and said that it was likely to prove the best solution of India's problems. He expressed the willingness of the States to join the Federation and declared that the Princes would be 'on the side of progress and would not allow themselves to be arrayed against the realization of the just hopes of their fellow-countrymen in British India.' This proved to be a turning point in the attitude of the British Conservatives who realised that the Princely element in the Central Government would provide a conservative and reliable element which could always be trusted to checkmate the radical forces in British India. It is interesting to observe that the Government of India Act made the grant of responsibility in the Centre dependent upon the establishment of the Indian Federation, and the latter itself on the accession of a definite number of States to the proposed Federation. The move to establish the Indian Federation was thus one of the cleverest devices adopted by the British statesmen. Federation, responsibility at the Centre, and safeguards: these three were indissolubly bound up in the net result of the R. T. C., and also in the Government of India Act of 1935.

The Gandhi-Irwin Settlement.— In order to give Mahatma Gandhi and the Congress Working Committee full and unfettered freedom to discuss the statement made by the British Prime Minister extracts from which have been quoted on the preceding page, the Viceroy lifted the ban on the Congress Working Committee and ordered the release of all its members. They were set free on the 26th of January, incidentally, the date on which the Independence pledge was taken all over the country exactly a year before. On the 6th of February Indian delegates to the R. T. C. returned, and two days later Sir Tej Bahadur Sapru and Dr. Jayakar held consultations

with Gandhiji. They and the Hon. Srinivas Sastri who joined them later were able to convince Mahatmaji that the Labour Government was earnest and was willing to concede to India the right of determining her affairs. The Working Committee invested Mahatmaji with the powers of a plenipotentiary to negotiate a settlement with the Viceroy in the name of the Congress. Mahatmaji entered into negotiations with Lord Irwin which turned out to be long and protracted. After many ups and downs, a settlement was arrived at between the two which was signed on March 5, 1931. The settlement, popularly known as the Gandhi-Irwin Pact, is too long to be given in full ; moreover, many of ite items do not concern us here. We shall describe in brief its main provisions. On behalf of the Congress Mahatma Gandhi agreed to suspend the Civil Disobedience movement, to give up the demand for an enquiry into police excesses and other atrocities committed onthe people during the movement, and to participate in the deliberations of the Round Table Conference. On behalf of the Government the Viceroy agreed to release all political prisoners sent to jail in connection with the Civil Disobedience movement, to restore confiscated property and land to the owners where it had not already been auctioned or otherwise disposed of, to withdraw the emergency ordinances, to permit the people living near the sea-coast to collect or manufacture salt without payment of duty, and to permit peaceful picketing of liquour, opium and foreign cloth shops.

The Pact had a mixed reception ; a great majority of the people welcomed it as a great victory for the Congress, but the left-wingers condemned it as a surrender to the Government. According to Shri Subhas Chandra Bose it was a great disappointment to the politically minded section of the people and to the youth organisations in the country. Pandit Jawahar Lal Nehru was shocked by the terms of one of its clauses ; the mention of reservations or safeguards in regard to matters like defence, external affairs, and the position of minorities distressed him. The people in Bengal showed no enthusiasm, for it did not secure the release of political prisoners convicted for violent activities. Inspite of his best efforts Mahatmaji could not secure the commutation of the death sentence on Sardar Bhagat Singh and his two comrades to transportation for life. There were no doubt shortcomings in the Pact ; but Mahatmaji did not like to break off negotiations on these points because a movement like that

of civil disobedience cannot be continued for an indefinite period. Moreover, nothing vital was lost and no surrender of principle made in striking the settlement. Mahatmaji described the Pact as victory for both the sides. It was a victory for the common desire of both Mahatmaji and Lord Irwin to arrive at a settlement. It not only spared the nation the sufferings which in the event of breakdown would have been intensified, but also enhanced the power and prestige of the Congress. Pandit Jawahar Lal Nehru wrote in his Autobiography that Delhi attracted all sorts of people during the days when negotiations were going on between Mahatma Gandhi and Lord Irwin. After their successful termination many a man who had kept himself at a safe distance from the Congress during the days of turmoil and conflict wanted to come near it and make amends for his past behaviour. Even the communalists desired to come to an understanding with the Congress. There is no doubt that as a result of having gone through the crucible of suffering the prestige of the Congress increased and the nation gained in moral height. The Pact 'stands as a monument to the good sense and high patriotism of both parties thereto.'*

After the Delhi Pact.— The Pact was to be ratified by the Congress session held at Karachi under the Presidentship of Sardar Patel. One week before the Congress was to meet, Sardar Bhagat Singh and his two comrades were executed. This was a great strain on the Pact and the extremists within the Congress made full use of the event to run it down. But Mahatmaji carried everything before him, and the Pact was ratified.

If Lord Irwin had stayed in India for another year as Viceroy and there had been no change of government in Great Britain, it is possible that the provisional agreement arrived at between two noble souls at Delhi would have paved the way for a proper solution of the Indian problem and led to a lasting understanding between India and Great Britain. The two countries would have united in a common friendship to the advantage of both. But fate willed otherwise. Lord Irwin was succeeded by Lord Willingdon, a man with an entirely different nature and reputation, and the Labour Government was replaced by one largely Tory in colour. Mr. Wedgwood Benn made way for Sir Samuel Hoare as the Secretary of State for India. These changes altered the situation in both the countries very much.

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* Zacharias : *op. ct.*, page 274.

In India the Congress complained that Government officials did not observe the terms of the Gandhi-Irwin Pact ; it was alleged that they honoured the pact more in breach than in observance. A long list of alleged breaches was prepared and sent to the Government. A long drawn-out correspondence between Mahatmaji and the Government ensued and the former informed the latter that under the circumstances he could not proceed to England to participate in the R. T. C. This was on August 13, 1931. The Government, on their side, complained that the Congress was not oberving the terms of the Gandhi-Irwin Pact. There was an interview between Mahatma Gandhi and Lord Willingdon at Simla at which an understanding was arrived at and Mahatma Gandhi agreed to sail for London, as the sole representative of the Congress. The Government also nominated Pandit Madan Mohan Malaviya and Shrimati Sarojini Naidu in their individual capacities.

The wisdom of the decision of the Congress to send Mahatma Gandhi as its sole representative to the London Conference has been questioned by some persons. They think that the hands of the Mahatma would have been greatly strengthened by the presence of a large and strong contingent of Congress leaders. If the issue before the Conference were the settlement of a constitution for India, the presence of a large number of Congress delegates would have been necessary and useful. But that was not the question at issue. The real problem was how much power was to be transferred to the people of India. For explaining the Congress position and demand and showing its reasonableness one man was enough, and Gandhiji as the leader of the nation was the first person for the job. Moreover, it was considered wise to have the topranking leaders here at home because of the necessity of a tactful handling of the situation which was critical enough. It was felt that, inspite of the R. T. C. meeting in London, the centre of gravity lay in India. It was also decided that in case Mahatmaji felt it necessary to call some of the members of the Working Committee to London for consultation, they could reach there within a week's time. On the whole the decision was sound ; the country did not suffer because of it in any way.

The 2nd R. T. C.— Mahatma Gandhi sailed for England on the 29th of August, 1931, to participate in the second session of the Round Table Conference which began on the 7th of September. He

reached London on the 12th, five days late. He was late in another sense also. Dr. Zacharias is of the opinion that Mahatma Gandhi's participation would have been productive of more good had he attended its first session when Labour was in office, and no decisions had been arrived at. But he arrived at a time, when due to a financial crisis the Labour Government had resigned (August 26), and Mr. Ramsay MacDonald had formed a new government, *National* in name, but largely Tory or Conservative in colour. Important decisions had already been taken which could not be changed. We do not share this view. It was the Civil Disobedience movement which led the British Governmentt o concede partial responsibility at the Centre. But to continue the story, there was a further change in Great Britain. A general election was held in October whose outcame was a predominantly Conservative House of Commons. These changes proved most unfavourable for the Indian cause ; such of the British delegates as were friendly to India were either left out or pushed into the background, while those hostile to her emerged into prominence. Mr. Wedgwood Benn was replaced by Sir Samuel Hoare who was reputed to be a strong man. Thus the spirit which pervaded the first session was absent from the second ; the attitude of the British delegation was completely changed. 'Under Mr. Benn the Conference in 1930 had been a real joint deliberation of peers ; under Shri Samuel Hoare in 1931 it was a tiresome legacy of a pompous debating society that was being liquidated.'*

The Conference was ostensibly called for the purpose of settling the dispute between England and India and arriving at an amicable settlement of the Indian constitutional problem. Things were, however, manœuvred in such a way that the communal problem loomed large in every direction. The constitutional problem was side-tracked, and in order to discredit Indian demands a minor problem was pushed into lime-light. Mahatma Gandhi was anxious to solve the communal problem, else to postpone it for future consideration, so that a concentrated effort might be made by the Indian delegation to whittle down safeguards and get real self-government for India. But his efforts could bear no fruit. The composition of the Indian delegation was such that it made the solution of the communal problem well-nigh impossible. It contained persons who lived and thrived on communal differences. Persons who could

* Zacharias : *op. ct.*, page 281.

have taken a reasonable attitude towards communal problems and striven their utmost to find a solution for them most earnestly were never nominated to the Conference. Efforts to get men like Dr. Ansari invited to it did not succeed. Wire-pulling by politicians in Britain who were anxious to perpetuate British power in India by the policy of divide and rule also made any reasonable solution of the problem impossible. The demands made by various delegates on behalf of their respective communities were incompatible. The Muslims wanted absolute majority in the Punjab and Bengal, the retention of excessive weightage in the provinces (where they were in a minority) granted to them under the Lucknow pact, and one-third representation in the Centre. The Sikhs wanted weightage in the Punjab similar to that granted to the Muslims in Assam, Bombay, the U. P., and Madras. It was impossible to reconcile the Muslim claim for absolute majority in the Punjab with the Sikh clim for weightage and the rights of the Hindus. Similarly, the Muslim claim for an absolute majority in Bengal could not be made square with the demands of the Europeans for weightage. The Depressed Classes, following suit, claimed separate representation for themselves. An atmosphere in which each community makes excessive claims for itself and is unmindful of national interests is hardly conducive to the settlement of such a thorny question Little wonder that Mahatma Gandhi failed in his efforts. The insistence of the Moslem members that they would not participate in the general constitutional discussion until *all* their demands were conceded was most unfortunate and obstructive. The Moslems joined in an unholy alliance with reactionary British interests, and the result was the notorious Minorities pact. The following extract from a confidential circular issued by Loyalists in which group Mr. Benthal, the representative of the British interests in India, was included, throws much light on the shameful way in which the communal question was handled in the R. T. C. : 'The Muslims were a solid and enthusiastic team...... They played their cards with great skill throughout ; they promised us support and they gave it in full measure. In return they asked us that we should not forget their economic plight in Bengal... and do what we can to find places for them in European firms so that they may have a chance to improve their material position and the general standing of their community... after the general election the right wing of the Government made up

its mind to break up the Conference and to fight the Congress. The Muslims who do not want responsibility at the centre were delighted ...... We had made up our minds that the fight with the Congress was inevitable ; we felt and said that the sooner it came the better, but we made up our minds that for a crushing success we should have all possible friends on our side. The Muslims were all right ; the Minorities pact and the Government's general attitude ensured that. So were the Princes and the Minorities... The Muslims have become firm allies of the Europeans. They are quite satisfied with their own position and are prepared to work with us.'* Such an unholy alliance would have been an impossibility if another set of representative Muslims had been invited to the Conference. The net result of all this intriguing was the inability of the Minorities Sub-committee to solve the communal problem. The matter was left to be solved by the Prime Minister. This was the origin of the famous Communal Award which contains the British Government's solution of this vexed question, a solution which is most unfair to some and most favourable to other communities. The details of the Award will be examined in another context.

The following extract from the Autobiography of Jawahar Lal Nehru describes very aptly the true nature of the proceedings of the London Conference and the causes of its failure. He writes as follows : 'The scales were terribly loaded against us at that Conference and, little as we expected from it, we watched its proceedings with amazement and ever-growing disgust. We saw the pitiful and absurdly inadequate attempts to scratch the surface of national and economic problems, the pacts and intrigues and manœuvres, the joining of hands of some of our own countrymen with the most reactionary elements of the British Conservative Party, the endless talk over petty issues, the deliberate shelving of all that really mattered, the continuous playing into the hands of the big vested interests and especially British imperialism, the mutual squabbles, varied by feasting and mutual admiration. It was all jobbery— big jobs, little jobs, jobs and seats for the Hindus, for the Muslims, for the Sikhs, for the Anglo-Indians, for the Europeans ; but all jobs for the upper classes, the masses had no look-in. Opportunism was rampant, and different groups seemed to prowl about like hungry wolves waiting for their prey— the spoils under the new constitution. The very conception

* Quoted by S. Sardul Singh Caveeshar in *Non-Violent Non-Cooperation*, page 245.

of freedom had taken the form of large-scale jobbey ... ... No one thought in terms of independence, of the transfer of power to a democratic India, of the solution of any of the vital and urgent economic problems facing the Indian people ... .

'In that crowded and gilded hall Gandhiji sat, a very lonely figure. His dress, or absence of it, distinguished him from all others, but there was an even vaster difference between his thought and outlook and that of the well-dressed folk around him. His was an extraordinarily difficult position in that Conference, and we wondered from afar how he could tolerate it. But with amazing patience he carried on, and made attempt after attempt to find some basis of agreement ... .'*

This long extract explains why Mahatma Gandhi failed to solve the various problems which confronted him and the Conference. He had gone to London to try and turn the truce arrived at between him and Lord Irwin into a permanent settlement. But circumstances were too strong for him. The British Government were not at all anxious for a settlement of the problem ; nay, as is clear from the contents of the circular letter of Mr. Benthal, they were getting ready for a fight with the Congress. The Bureaucracy in India had not at all liked the way in which Lord Irwin had dealt with the Congress and concluded an agreement with Mahatma Gandhi on terms of equality ; its training and authoritarian conception of government were opposed to it. The British Government manœuvred things in such a way that the consideration of fundamental questions was postponed and the Conference lost itself in the consideration of minor matters. The great majority of Indian leaders fell in with this official manœuvring willingly or unwillingly. Mahatmaji was pained by this unbusinesslike character of the proceedings of the Conference and described it as a 'long, slow agony.'

The R. T. C. concluded its session on December 1, 1931. Mahatmaji had a mind to prolong his stay in England to recuperate his health and also to tour the Continent. But he received urgent summons from his co-workers here at home where the situation was deteriorating rapidly. He cancelled his tour and returned post-haste to India, visiting Romain Rolland the Signour Mussolini on the way.

The Struggle Resumed.— What Mahatmaji saw and sensed in England made him feel that the Congress and the British Government

* Jawahar Lal Nehru : *Autobiography*, page 293—94.

had come to a parting of the ways. He gave expression to this feeling while moving a vote of thanks to the Prime Minister. Before leaving London he told a press interviewer that an immediate revival of nation-wide movement of civil disobedience was out of the question, but there was the possibility of local civil disobedience being resorted to as a protest against specific acts of injustice or high-handedness on the part of the government.

The British Government, however, looked at the situation from a different angle. As has been pointed out earlier the Indian Civil Service heirarchy did not at all like the way in which Lord Irwin had concluded an agreement with Mahatma Gandhi on terms of equality. They thought that it had added to the prestige of the Congress and it was time that it was brought down. The contents of the confidential letter circulated by Mr. Benthal also show that the British Government had made up its mind to give the Congress a fight and teach it a lesson. Both Sir Samuel Hoare and Lord Willingdon had decided 'not to wait, until the struggle had proved itself either violent or non-violent, but were resolved to prevent any struggle from developing.'* So when Mahatma Gandhi landed at Bombay on the 28th of December, 1931, an ugly situation in India faced him. During the period he was away at London the Government of India had resorted to highly repressive measures in the U. P., Bengal, and the N. W. F. Province. In Bengal there had been a recrudescence of revolutionary terrorism, chiefly by way of retalition against the oppressive and high-handed acts of government officials ; and to curb these activities the Government had promulgated an ordinance which introduced a veiled form of martial law in the district of Chittagong. In the North Western Frontier Province an ordinance was issued declaring the Red Shirt Volunteers an illegal body, and their leader Khan Abdul Gaffar Khan and his brother were arrested and taken to a distant prison. In the U. P. an ordinance was issued to crush the limited no-rent campaign which the local Congress Committee had decided to start. On top of all this Pandit Jawahar Lal Nehru and Mr. T. A. Sherwani were arrested when they were on their way to Bombay to meet Mahatmaji. The Congress Working Committee considered the situation and authorised Mahatmaji to seek an interview with the Viceroy. Mahatmaji addressed the following telegram to the Viceroy : 'I was unprepared on landing yesterday to find the Frontier and the

* Zacharias : *op. ct.*, page 284.

U. P. Ordinances, shootings in the Frontier and arrests of valued comrades in both and on the top, the Bengal Ordinance awaiting me. I do not know whether I am to regard these as an indication that friendly relations between us are closed or whether you expect me still to see and receive guidance from you as to the course I am to pursue in advising the Congress.' The Viceroy sent a long reply and said that he was not prepared to discuss the measures which had been adopted by the Government of India, with the fullest approval of His Majesty's Government in England, to meet the situation in Bengal, the U. P. and N. W. F. P. The Working Committee considered this reply and passed a resolution in which it expressed its readiness to cooperate with the Government in various matters provided a satisfactory response was forthcoming to its demands, and called upon the country to resume civil disobedience if such response was not forthcoming.

The response of the Government came in the form of the arrest of Mahatma Gandhi and the members of the Working Committee at dead of night and the sweeping arrests of Congress leaders all over the country before they could get time to start civil disobedience. 'Within a week almost everybody who was somebody in the Congress party was in prison.'* In this way the Government took the initiative and launched a fierce onslaught on the Congress. The Government had perfected its plans of attack during the period of the truce, whereas the Mahatma was pursuing a peaceful policy and was neither willing nor ready for the resumption of the movement. But the Government of India dragged him and the country into the fight. This was the main and vital difference between the Non-Cooperation Movement of 1920—21 and the Civil Disobedience Movement of 1930 on the one side, and the struggle of 1932 on the other. In the first two cases the initiative was with the Congress, the Government was on the defensive. Moreover, the latter was unfamiliar with the new method and did not know how to deal effectively with a movement of this sort. In the struggle of 1932 the initiative was taken by the Government who had prepared effective measures for crushing the movement before it got under way ; the Congress was on the defensive.

Inspite of the fact that the Congress was not prepared for the struggle and the Government dealt it a very heavy blow at the very

* Subhas Chandra Bose : *The Indian Struggle*, page 334.

outset, Lord Willingdon could not carry out his boast that he would crush the Congress in six weeks' time. The Government declared the Congress and allied or sympathetic organisations illegal. The total number of associations thus outlawed must have been several thousands. Their funds and properties were siezed, and orders were issued that no one should help them with funds or in any other way. Even giving shelter to Congress volunteers was made an offence. Meetings and processions were banned, and the nationalist press was effectively gagged. In some places even the names of arrested persons could not be published. Heavy fines were imposed to hit the helpers and sympathisers of the Congress economically. 'The Government countered Congress with every resource at its command ; India lived practically under martial law, and Congress never really got back the iniitative or any freedom of action.'* It is believed that the sufferings and hardships undergone by the people during 1932 were far geater than those in 1931. The severity and ruthlessness of the measures adopted by the Government was unprecedented since the days of the Mutiny. Even Sir Samuel Hoare admitted in the House of Commons that the Ordinances promulgated by the Government of India were very drastic and severe and covered almost every activity of Indian life. Despite all this the movement continued with unabated vigour for the first eight months of the year. There was no dearth of civil resisters ; the response of the country to the challenge of the Government was remarkable. According to official figures 14,800 persons were arrested in January, and 17,800 in February, 1932. Up to the 20th of April 66,646 persons including 5,325 women, had been sent to jail. The total number of arrests according to Congress estimate was not less than 80,000 during the first four month. The jails were overcrowded and ordinary convicts were released to make room for political prisoners. Finding it difficult to accommodate the Congress volunteers in jails Government changed its tactics. Instead of arresting Congress volunteers for defiance of ordinances, it began to use force in preventing demonstrations. It is needless to describe the character of this struggle in which all the brutality and ruthlessness was on one side and all the suffering and privation on the other. The people braved all their hardships unflinchingly. Inspite of the efforts of the Government to prevent the holding of the annual session of the Congress, the citizens of Delhi were able to

* Jawahar Lal Nehru : *Autobiography*, page 328.

hold it near the Clock Tower under the Presidentship of Shri Ranchorddas of Ahmedabad. It was attended by more than 700 delegates from different parts of India. The police arrived on the scene after the proceedings had been gone through, and arrested a large number of persons. The next session was held under similar con di-tions at Calcutta under the presidentship of Mrs. J. M. Sen-Gupta in the absence of the President-elect, Pandit Madon Mohan Malaviya, who had been arrested earlier. It was attended by about 2500 delegates. The following extract from the speech of the President-elect reflects the feelings of the people : 'It is estimated that nearly 126,000 persons including several thousand women have been arrested and imprisoned during the last fifteen months ......Fifteen months have not enabled the Government to achieve that object (that of crushing Congress in six weeks' time). Twice fifteen months will not enable it to do so.'

The struggle continued, but in a greatly toned down form. The frightfulness of the repressive measures adopted by the Government did not kill the spirit of the people, but it made impossible the external manifestations which featured so prominently during the 1930 struggle. Boycott of British goods was an important part of the programme. When the preaching of boycott of British goods was made a penal offence, people began to preach 'Buy Indian things.' Some persons were arrested and sent to jail even for propagating the cult of 'Buy Indian.'

Mahatmaji's Fast, the Poona Pact and After:— While the struggle was going on in the country, the British Prime Minister announced his decision on the communal problem on August 17, 1932. Among other objectionable features it proposed the creation of separate electorates for the Depressed Classes,—a provision against which Mahatmaji had given warning to the authorities in England. On March 11 Gandhiji wrote to Sir Samuel Hoare that if the Government proposed to tear away the Depressed Classes from the main body of Hindus by creating separate electorates for them, he would resist the attempt with his life. It seems that the authorities in England did not take the warning seriously, since the Communal Award created separate electorates for the Depressed classes. Mahatmajee announced his decision to fast unto death. The fast was to cease only if the British Government, either of its own accord or under pressure of public opinion, withdrew the

scheme. The publication of the news caused great consternation throughout length and breadth of the country, and frantic appeals were made to him to give up the idea. But nothing availed, and the fast was begun on the 20th of September, 1932. Pandit Madan Mohan Malaviya called a conference of Hindu leaders at Bombay to deliberate as to how to save the life of Mahatma. The meeting changed its venue to Poona after a preliminary discussion at Bombay. The result of the deliberations of the Conference was the famous Poona Agreement which was ratified by the Hindu Mahasabha and later on accepted by His Majesty's Government. It gave to the Depressed Classes 148 seats in place of the 71 provided for them in the Communal Award, but on the basis of a common electorate for all the Hindus. The other details of the Poona Agreement will be described elsewhere ; they do not concern us here.

Mahatmaji's fast gave a great fillip to the movement for the eradication of untouchability. It had, however, an adverse effect on the civil disobedience movement. After the successful termination of the fast Mahatmaji began to direct the campaign against untouchability from behind the prison-bars. This diverted the attention of the people and the workers away from the civil disobedience movement. Many a worker gave up the political fight and turned to anti-untouchability work.

Meanwhile, the Civil Disobedience Movement went on in the country. though in a much weaker form. The severity of government repression made frequent mass demonstrations impossible. In order to prevent in from fizzling out and rouse the enthusiasm of the people the Independence Day was celebrated on the 26th of January as usual, and in April an attempt was made to hold the Congress session at Calcutta. On both the occasions Government used force to stop demonstrations and arrested a large number of persons.

While still a prisoner in the Yervada Jail, Mahatmaji announced his intention to go on a three week's fast as 'a beartprayer for purification of myself and my associates, and for greater vigilance and watchfulness in connection with the Harijan cause.' The fast commenced on May 8. 1933, and on the same day Mahatmaji was unconditionally released. Almost the first thing he did on release was to advise the Congress Acting President to suspend the Civil Disobedience Movement for six weeks and himself appealed to the Government to withdraw the Ordinances and release the political

prisoners. The movement was suspended first for six weeks and then for another six weeks, but the Government did not withdraw the Ordinances or release the political prisoners. Mere suspension of the movement did not satisfy it ; it demanded its unconditional withdrawal. On July 24 Mahatmaji advised the Acting President to suspend *mass* civil disobedience. He himself disbanded his Ashram at Sabarmati and announced his intention of starting individual civil disobedience in Ras village in Kaira district and urging people to do the same there. Upon this he was put under arrest and lodged in the Yervada Jail for one year. In the jail again, he demanded facilities for carrying on Harijan work which were extended to him in 1932, but the Government refused. He thus decided to fast again. The Government again released him. On coming out of prison he decided not to offer civil disobedience till the expiry of his one year's term, and devoted all his energies to the campaign against untouchability. This decision, however sound and justifiable on moral grounds, meant the death-knell of individual civil disobedience. Mahatmaji undertook a tour of the country for the Harijan cause. The terrible earthquake in Bihar took him to that afflicted province where he had talks with several of his co-workers. As a result of these talks, searching of heart and waiting upon God, he came to the conclusion that he should take the responsibility of civil disobedience upon himself alone. He therefore advised the A. I. C. C. at the meeting held at Patna to give up individual, disobedience as well. In this way the struggle forced upon the nation by the Government of Lord Willingdon which had prepared itself fully for a crushing onslaught on the Congress ended in an apparent victory for the former and defeat for the latter. The Congress suffered defeat in the sense that it had to withdraw its campaign of civil disobedience without achieving its objective. The frightfulness of Government made organised defiance of ordinance regime and domonstrations, etc., impossible. The Government, however, did not succeed in crushing out of existence the spirit of revolt against foreign rule. Repression can merely repress the spirit of freedom for a time but cannot altogether destroy or eradicate it.

Meanwhile, a number of Congressmen were drifting to the idea that under the conditions prevailing in the country the programme of council-entry should be revived. Messers N. C. Kelkar and Jamnadas Mehta called a conference of the Democratic Swaraj Party

early in 1934 to popularise the idea. A little later, Dr. M. A. Ansari and Dr. B. C. Roy summoned a meeting of Congressmen of their way of thinking at Delhi in March which resolved to revive the Swaraj Party to contest the elections to the legislature . A larger conference was called in the following month at Ranchi in Bihar where Mahatmaji was expected to be available for advice. It ratified the decision of the Delhi Conference. In May 1934. the A. I. C. C. met at Patna after an interval of about three years, and formally decided to give up the campaign of individual Civil Disobedience and allow Congressmen to enter the legislatures Mahatmaji alone was given the right to offer civil disobedience, if and when he chose. In this way the Congress reverted to the Council Front for marking time. Instead of allowing the Swaraj Party to function, the Congress assumed responsibility of contesting the elections itself and set up a Parliamentary Board for selecting candidates for election to the Central Assembly. After the Congress had given up Civil Disobedience and decided to contest the elections, the Government removed the ban on Congress organisations and allowed them to function.

Elections to the Assembly.— The elections to the Central Legislative Assembly were held in November, 1934. As has been pointed out above, the Congress decided to participate in them and contested almost every general seat and achieved grand success. It swept the polls in almost every province except in the Punjab. and thereby demonstrated to Lord Willingdon that. despite the severity of his repressive measures, it was very much alive and kicking. The most important contest was for the Commerce seat in South India. Sir Shanmukham Chetty, who had been elected President of the Central Assembly after his return from Ottawa, and Sir Venkatachalam Chettl were thetwo rival candidates. The first was backed by the Governments of India and Madras. Sir Mohammad osman, the ex-Home Member of the Madras Government, and the Raja of Bobbili. the Chief Minister of Madras, were among the chief signatories to his election manifesto. The latter was supported by the Congress. It was thus a contest between the Government and the Congress. The constituency was an enlightened one and quite small. The election was so timed as to lead almost every other election throughout the country ; its result was expected to influence elections elsewhere. In several ways it was a test fight. The Congress which the Government of Lord Willingdon had hoped to crush once for all by the use of

brute force and frightfulness came out successful in the contest ; its candidate defeated the Government nominee by a handsome margin of votes.

The Congress party gave a good account of itself in the Assembly, and with the help of other progressive elements in the Assembly it was able to inflict defeat on the Government on several occasions.

The Third R. T. C.— During the years 1932-35 the British Government followed a dual policy in India. On the one side, it took the severest measures against the Congress ; on the other, it pushed on with the work of constitution-making. The Goverment of India set up a Consultative Committee for keeping itself in touch with the leaders of parties other than the Congress and for considering the reports of the Franchise, Federal Finance, and Indian States Enquiry Committees.

In England Sir Samuel Hoare, the Secretary of State for India, did not favour the idea of holding any more sessions of the Round Table Conference and wanted to revert to the Simon Commission plan of inviting Indians to put their case before a Committee of Parliament which was to decide the future constitution of India. An announcement was therefore made on June 27, 1932, to the effect that the third session of the R. T. C. was abandoned. The Indian Liberals felt exceedingly annoyed at this, and as a protest against the decision their leaders resigned membership of the Consultative Committee. This had some effect on the Government, and the Viceroy announced before the Assembly that a small body of representative Indians from British India and the Indian States would be invited to London to hold discussions with British Representatives. In short, the British Government reluctantly agreed to convene the third session of the R. T. C. It was held from November 17 to December 24, 1932. The Congress was in the wilderness and therefore there could be no question of its participation. The British Labour Party also refused to participate in it because its nominees Mr. Wedgwood Benn and Professor Lees Smith, were not acceptable to the Government lest they should create a split in the British delegation. From India only safe men were invited. Even the nominees of the Hindu Mahasabha and the President of the Indian Liberal Federation were not invited. The Conference considered three main problems— safeguards, the terms under which the States

were to join the Federation, and the allocation of residuary pewers. An effort was made by the British Indian delegation to get a Bill of Rights incorporated in the Constitution, but it was vetoed by the British authorities.

After the session was over, the British Government published their proposals in the form of a White Paper. These proposals fell far short of the Indian demands. Even the Liberals were dissatisfied with them. All the important powers the exercise of which alone can be said to confer the status of a free nation on a people were reserved for the Governor General ; foreign relations and Defence were the vital departments with which the popular ministers had nothing to do. Unsatisfactory and disappointing as the proposals of the Government were, they were further whittled down by the Joint Parliamentary Committee which sat for eighteen months and examined a large number of witnesses, and by the British Parliament, too, when the matter came up before it in the form of a bill. All this was done to accommodate and please the die-hard element in Parliament. The net result of this long process which began with the appointment of the Simon Commission in 1928 and ended with the introduction of the Bill in Parliament was the Government of India Act of 1935. The main provisions of this Act will be examined in the next two chapters.

CHAPTER VII

The Government of India Act of 1935 : The Federal Government.

Introductory.— The Government of India Act of 1935 constitutes the second milestone on the road to full responsible government, the Government of India Act of 1919 being the first. The circumstances under which it was passed by the British Parliament have been explained at sufficient length in the preceding chapter. In accordance with the provisions of the Government of India Act of 1919 the Tory Government sent the All-White Simon Commission to this country to inquire into the 'system of Government, the growth of education and the development of representative institutions in

British India and matters connected therewith,' and to report 'as to whether and to what extent it is desirable to establish the principle of responsible government then existing therein.' This Commission was boycotted in India, and its report was still-born. The Labour Government which had succeeded the Tory Government in Great Britain convened a Round Table Conference consisting of representatives of the three main parties in Great Britain and of British India and the Indian States. It held three sessions between 1930 and 1932, only the second of which was attended by Mahatma Gandhi as the sole representative of the Indian National Congress. During the second and third sessions the Conservatives were in power. They made common cause with reactionary and communal elements in the Indian delegation, and manœuvred things in a way which made the decisions of the R. T. C. most unsatisfactory from the point of view of Indian Nationalism. It was on these decisions that the main provisions of the Government of India Act of 1935 were based. They were the result of the combined operation of four distinct forces, Indian Nationalism, British Imperialism, communal and other minorities in India, and the Indian Princes. Of these, the first was the weakest, and the second, supported as it was by the third and the fourth, the strongest. This explains why the Government of India Act of 1935 was most disappointing from the Indian point of view.

Basic Features of the Act.—We saw in an earlier chapter that the Government of India Act of 1919 took the first step towards the introduction of responsible government in the country by introducing *dyarchy* in the provinces. The Act of 1935 carried the process one step further by abolishing dyarchy and establishing responsible government in the whole sphere of provincial administration. The distinction between reserved and transferred subjects was done away with, and all provincial subjects were brought within the ambit of ministerial responsibility. But the establishment of full responsible government in the provinces could have no meaning without their being freed from the control of the Central Government. This was achieved by making the provinces autonomous units The establishment of provincial autonomy, implying both the autonomous status of the provinces and the grant of full responsible government— may thus be regarded as the first and most important feature of the Act of 1935. Its nature and significance will be explained later on. But provincial autonomy is incompatible with an irresponsible central government ; it necessitated

the democratisation of the Government of India. Moreover, Indian opinion had been demanding for long some degree of responsibility at the Centre. The Act of 1935, therefore, conceded partial responsibility at the centre. Some of the central subjects were to be administered by the Governor General with the help and advice of popular ministers, and others by him in his discretion. In short, the Act introduced *dyarchy* at the Centre.

The decision to introduce partial responsibility at the Centre, in its turn, meant that the ideal of an Indian Federation, 'which the Simon Report had left in the clouds,' became a practical proposition. The British Goverment was not prepared to transfer power to the peoples' representatives at the Centre, even to a limited extent, without assuring itself that there would be a stable and conservative element to act as a check on the radical elements which were bound to get there. This stabilising factor was made available in the shape of the representatives of the Indian States in an All-India Federation. There were other considerations also which favoured the federal idea, but what made it look like a practical proposition was the readiness of the Indian States to join the proposed Federation. The proposal to establish a new polity in which the British Indian Provinces and the Indian States were to be united on the federal principle was thus one of the most vital and fundamental provisions of the Act of 1935.

Provincial autonomy, partial reponsibility at the Centre, and an All-India Federation were thus inter-linked ; one necessarily led to the other. But none of them was accepted in an unqualified form in the Act of 1935. Provincial autonomy was subject to the special responsibilities and discretionery powers of the Governor ; responsibility at the Centre was similarly hedged in by reservations and safeguards. Reservations and safeguards were thus as essential a feature of the Act as the proposal to transfer power to the peoples' representatives in the Provinces and at the Centre. They will be described in detail in a subsequent section. Similarly, the federal principle had to be diluted and adapted in several ways to suit Indian conditions and British interests. It was an accident in the execution of the British policy in regard to India and not the expression of any inner urge on the part of the people. It was a proposal to unite together partial democracy and autocracy in an unnatural whole. Moreover, as has been shown already, accession to the Federation was compulsory for

some units and optional for others. The extent of the authority of the federal government was not exactly the same in regard to the various units of the Federation. It is not necessary to labour the point further.

Lastly, it may be pointed out that the Act did not in any way derogate from the sovereign authority of the British Parliament over India. The right to amend, alter or repeal the constitutional law remained vested in Parliament. The Act separated Burma from India, and Aden from Bombay.

Distribution of Powers.—A federal constitution like the one proposed in the Government of India Act 1935 or the one adopted by the Constituent Assembly on November 26, 1949, essentially means a voluntary union of politically autonomous states under a common or national government in such a way that the national government and the governments of the ferderating states have, each of them, a definite and alloted sphere in which each is supreme. This means that the Constitution cleary demarcates the fedral from the state sphere, and assigns some subjects to the federation and makes the federal legislature the sole and sovereign authority to legislate upon them. It assigns others to the federating units, giving their respective legislatures the right to legislate upon them for their respective citizens without any interference on the part of the federal legislature. Federalism essentially involves such a distribution of powers between the federal government and the governments of the federating units. There can be no federal constitution without it. There are two ways in which the totality of governmental powers may be divided between the government of the federation and the governments of the units. The powers which the units agree to surrender to the federal government may be positively named, and the whole of the unspecified remainder is then left to the units. In other words, the powers of the former are positively determined ; those of the latter, negatively so. This is the American plan. The other method is to specify the powers of the federating units and leave the unspecified residue to the federal government ; here the powers of the units are positively determined, and those of the federal government negatively. This plan was adopted in Canada in order to make the central government strong. In the Act of 1935 neither of these two usual methods was adopted. Nationalist opinion headed by the Indian National Congress wanted to name positively the powers assigned to the Provinces and leave the residue

to the Federal Government with a view to making the Centre strong. The Muslim League did not want a dominating Centre but desired powerful units, and therefore insisted upon specifying the powers of the Centre and leaving the remainder to the Provinces. British Imperialism agreed with the national view but did not want to displease the communalists, and so adopted a novel plan. The Act of 1935 enumerated the subjects allocated to the Federal Government in the Federal List, and specified the subjects alloted to the Provinces in a second list called the Provincial List. It thus specified the powers of both the federal and federating governments positively. There is also a third list called the Concurrent List. Both the federal and provincial legislatures were to have concurrent powers to legislate upon subjects included in this list. An effort was made to exhaust all the subjects of legislation and include them in the one or the other of the three lists. In case a subject was discovered which did not find place in any of the lists, the Governor General was to determine whether it fell within the competence of the Federal or of the Provincial Legislature. The question of residual powers was settled in this novel way.

The Federal Legislature alone had the power to legislate upon the subjects mentioned in the Federal List. They were 59 in number. The more important of them were the following : His Majesty's naval, military and air forces borne upon Indian establishment ; naval, military and air force works ; external affairs ; ecclesiastical affairs ; currency, coinage and legal tender ; public debt of the Federation ; posts and telegraphs, including telephones, wireless, broadcasting, etc., and the Post Office Savings Bank ; Federal Public Services and Public Service Commission ; the Imperial Library and the Indian Museum ; the Benares Hindu University and the Aligarh Muslim University ; survey of the India ; ancient and historical monuments ; census ; federal railways ; martime shipping and navigation ; major ports ; aircraft and air navigation ; light-houses ; copyright and inventions ; cheques and bills of exchange ; arms, fire-arms and ammunitions ; explosives ; opium ; petroleum ; development of industries ; labour in mines and oil-fields ; insurance ; banking : customs duties ; excise duties on tobacco and other goods manufactured or produced in India except alcoholic liquors, Indian hemp and other narcotic drugs and medicinal and toilet preparations ; corperation tax ; salt ; state lotteries ; income-tax ; taxes on capital ;

succession duties ; terminal taxes; taxes on railway fares and freights. These are subjects essential and vital for the existence of the Federation and concern India as a whole. It is necessary that there should be a uniform policy with regard to them.

Subjects which are essentially of a provincial nature, *i. e.* which concern the Provinces more than the Federation and about which there need be no uniformity of treatment throughout the whole country were included in the Provincial List.. The Provincial Legislatures had exclusive jurisdiction over them. Under normal circumstances the Federal Legislature could not legislate upon any of them, though in cases of emergency it might do so with the previous sanction of the Governor General. The Provincial List contained 54 subjects, the more important of which are the following : public order and administration of justice, constitution of all courts except the Federal Court ; police, prisons and reformatories ; public debt of the Province ; Provincial Public Services and Provincial Public Service Commission ; pensions ; land acquisition ; provincial libraries, museums etc. ; provincial elections ; local self-government ; public health and sanitation ; hospitals, dispensaries, and registration of births and deaths ; education ; communications ; irrigation and canals ; agriculture ; land tenure and agricultural loans ; weights and measures ; development of industries in the province ; trade and commerce within the province ; unemployment and poor relief ; theaters and cinemas ; co-operation ; land revenue ; excise duties on alcoholic liquors for human consumption, opium, and medicinal preparations ; taxes on agricultural income ; taxes on land and buildings ; succession duties in respect to agricultural land ; capitation taxes, taxes on professions, trades and employment ; taxes on advertisements and sale of goods ; taxes on animals ; taxes on luxuries, entertainments, betting, gambling etc. ; and tolls. An amendment of the Act added taxes on the consumption or sale of electricity, and Universities except those of Benares and Aligarh to the list.

There was a third list also called the Concurrent List. It contained in all 26 subjects arranged in two parts. The following are some of the more important items of part I of the List : criminal law ; criminal procedure ; civil procedure ; evidence and oath ; marriage and divorce and adoption ; transfer of property and registration of deeds and documents ; wills, intestacy and succession;

trusts and trustees ; contracts ; bankruptcy and insolvency ; non-judicial stamp duties ; legal, medical and other professions ; newspapers, books and printing presses ; poisons and dangerous drugs mechanically propelled vehicles ; boilers ; European vagarancy and criminal tribes. The following were included in part II : factories ; welfare of labour, provident fund for labour, unemployment insurance ; trade unions ; industrial and labour disputes ; electricity ; inland shipping and navigation ; detention of persons under federal authority ; and sanctioning of cinematograph films for exhibition.

The Concurrent List contains subjects which are essentially of provincial interest but require a uniform policy and treatment throughout India. Both the Federal and the Provincial Legislatures were competent to legislate on them ; the latter could vary the federal legislation to suit their varying requirements.

The student must clearly understand that a clear-cut distinction between subjects which are to be administered by the federal government and those which are to be administered by the governments of the federating units is indispensable for a federal constitution. No party can make any alteration in the scheme of distribution as sanctioned by the constitution; changes can be effected only by a constitutional amendment. No party can invade the sphere of the other; the governments of the units cannot legislate upon federal subjects and the federal legislature cannot deal with any provincial or state subject. Though under the Act of 1919 also a distinction was made between central and provincial subjects, it had nothing of a federal character about it; the central legislature had the right to make laws about a subject which was classed as provincial, and a provincial legislature could similarly legislate for its own territory on any subject even though it was classed as central. The statutory allocation of exclusive powers to the federal and provincial legislatures under the Act of 1935 thus stands in sharp contrast with the legislative relations between the centre and the provinces under the Act of 1919.

Salient Features of the Indian Federal Scheme.—The federal constitution outlined in the Government of India Act of 1935 has many features which distinguish it from other federal constitutions Most of them are due to the fact that the impulse and motive towards federation came not from the people but from an external source—the British Government. 'The Federation in India is the result partly

of the political evolution of British India, partly of the desire of the States to play a part in the constitutional progress of the country and to get their rights in relation to the Paramount Power definitely clarified and defined, and mostly of the anxiety of the British Government to secure steadying, stabilising and conservative elements before granting some responsibility at the Centre.'* It will be recalled that nationalist India has been agitating for long for responsible government at the Centre, and that the Act of 1919 did not concede any responsibility there. The British Government refused to commit itself to the propsition that the R. T. C. was being convened for the purpose of framing a Dominion constitution for India. This led the Congress to stay away from its first session and launch the struggle for Swaraj. The intensity and volume of the sufferings undergone voluntarily and cheerfully by the people in their non-violent campaigns for freedom might have led the British Government to the conviction that the transfer of power to the people in the government of India could not long be delayed. But what really produced a great change in the attitude of British statesmen towards Central Responsibility and made them think of it as within the range of practical politics and not as some distant and far-off ideal, was the willingness of the Indian Princes to join the proposed Indian Federation. The former at once realised that the association of the Princes with the Federation would furnish to the Government at the Centre a much needed stabilising and conservative factor. With a strong bloc representing the Princes in the federal legislature, British interests would be pretty safe and secure, and power could be transferred to the people without much misgiving. This enables us to understand the British insistence on the establishment of the Federation as a condition precedent to the grant of central responsibility and the accession of a number of States to the Federation before it could become a fact.

This also explains another prominent feature of the Indian Federation. Whereas other federations have been the rusult of a process of uniting thitherto independent states, in our country the creation of Federation meant the breaking up or splitting up of the unitary British India into autonomous provinces and then uniting them with such Indian States as might care to join. Though politically India was divided into two different parts, economically

* Joshi : *The New Constitution of India, page 91.*

and for purposes of defence and foreign relations she had long been one single unit. None of the purposes which have normally led to federalising elsewhere were present in this case, and the motives which were operative here have had no precedents in the world. The proposed Indian Federation was unique in this respect.

It had serveral other distinguishing traits. Its units were not of the same status and character. British Indian Provinces enjoyed a measure of democratic government; their citizens had many civic and political rights and would have elected their representatives in the federal legislature, directly to the one and indirectly to the other chamber. The Indian States had nothing in the way of democratic Government, in them more or less undiluted personal rule prevailed. Their citizens did not enjoy the same civic and political right, and were not to have any share in the choice of the representatives of the States in the federal legislature. In the Indian Federation two or three dissimilar types of units were sought to be united.

The Indian Federation was to be brought into existence by the Crown. It was not to come into existence as the result of any agreement of contract between the federating units themselves. The British Indian Provinces or their people were not to determine what States were to be admitted into the union and on what conditions. All this was to be settled by the Crown. It should also be noted that whereas the range of federal powers was the same in regard to British Indian Provinces, it would not have been the same in the case of the States acceding to the Federation. Nothing like it was found in any other federation. We have already drawn attention to the fact that the scheme of distribution of powers between the federal government and the governments of the units had no parallel in the world.

The political dependence of India accounted for some other features of the proposed scheme. The process of amending the federal constitution was made very rigid and complex The power was vested in the British Parliament. In some most important and vital matters the States which would have joined it could have put serious difficulties by not agreeing to the proposed amendments. The relation of the States to the Paramount Power remained outside the Federation. They were tp have direct dealings with the Crown, a right denied to the British Indian Provinces.

The constitution outlined in the Government of India Act was

the longest and the most complex constitution in the world. The Act had 321 sections and ten schedules. Some of its provisions did not deal with problems really constitutional bnt with questions of an administrative character; *e. g.*, sections dealing with commercial safeguards, provisions against discrimination, constitution of the Reserve Bank and the Federal Railway Authority. There were other features also but they related to subordinate problem; *e. g.*, the constitution of the Chambers. They shall be referred to at appropriate places.

Establishment of the Federation.—The Government of India Act of 1935 did not establish the Indian Federation; it merely contained a provision for it. It provided that the Federation of India was to be brought into existence by a Royal Proclamation. Before His Majesty could make the Proclamation, two conditions were to be fulfilled. An address in that behalf was to be presented to the King by each House of Parliament; and such an address could be presented only when Rulers of States representing not less than one-half of the total population of the States and entitled to not less than half of the seats allotted to the States in the upper chamber of the Federal Legislature, *i. e.*, 52 seats, had signified their assent to join the Federation. The establishment of the Federation was thus made dependent upon the consent of a requisite number of States to join it. Since, for various reasons, the requisite number of States did not agree to join the Federation, it did not come into existence.

It is natural to ask why it was that the Indian Princes showed great reluctance to join the Federation. It was generally expected at the close of the R. T. C. that the requisite number of them would accede to it within an year or two. This expectation, however, did not materialise. By way of explanation it has been suggested that when the Indian Provinces declared at the first session of the R. T. C. their willingness to join the Federation, they did not fully realise all the implications of their step, particularly, its consequences on their sovereignty. Despite the very generous concessions the Act made to their claims, they did not look upon it with favour; they were more anxious to preserve their own autonomy than to see the unity of India realised in a federal polity. The question of paramountcy could not be solved to their satisfaction; and the exact terms on which the accession to the Federation was to be made could

not be settled. Meanwhile, the war started in Europe and the whole question was put in cold storgae.

There was wide and universal condemnation of the Act of 1935 in the country. The Indian National Congress, the Muslim League and other parties were all hostile to it, though for different reasons. Even the Liberals criticised the limitations it imposed on self-government, though they were for woking it. The Congress seriously objected to the reservations and safeguards which rendered the transfer of power to the people almost meaningless. There was no element of growth or development in the system. Congress also found it difficult to reconcile itself to the idea that the representatives of the States should be nominated by their rulers. The Congress attitude towards the Act is well-expressed in the following extract from Pandit Jawahar Lal Nehru's *Discovery of India*. Writing about the Act of 1935 he says that it 'provided for some kind of provincial autonomy and a federal structure, but there were so many reservations and checks that both political and economic power continued to be concentrated in the hands of the British Government. Indeed in some ways it confirmed and enlarged the powers of an executive responsible solely to that Government. The federal structure was so envisaged as to make any real advance impossible...... . Thus, reactionary as this structure was, there were not even any seeds in it of self-growth...... . The Act strengthened the alliance between the Government and the princes, landlords, and other reactionary elements in India...... it retained in British hands complete control over Indian finance, military and foreign affairs ; it made the Viceroy even more powerful than he had been.'*

The League too denounced the safguards as taking away from the reality of responsible government, but was prepared to work the provincial part. Inspite of this opposition and the unwillingness of the Princes, the British Government could have brought the Federation into existence, if it were so minded. It could have persuaded sufficient number of Princes to accede to it, had it so desired. But it wanted to wait and watch the way in which provincial autonomy worked before entrusting power to the people's respresentatives at the Centre. The War in Europe and the developments in India altered the situation, and the federal scheme was dropped. So while effect was given to that part of the Act which dealt with

* *Discovery of India*, page 350.

provincial autonomy, etc., the Centre remained as it was constituted under the Act of 1919, responsible to Parliament and not to the people.

Accession of the States to the Federation.— Since the actualisation of the Federal scheme was made dependent upon the States entering the Federation, we we may at this stage conveniently study the procedure by which the accession could be effected. According to Section 6, the Ruler of State who wanted to join the Federation had to execute what is called an 'Instrument of Accession'. Therein he was to declare his willingness to accede to the Federation, and to bind himself and his heirs and successors to accept the authority of the Governor General, the Federal Legislature, the Federal Court or any other Federal Authority to exercise such functions in relation to his State as may be vested in them by the Act. The Federal Authority could be exercised only for the purposes of the Federation and with regard to such subjects only as were to be enumerated in the Instrument of Accession. The range of Federal power could be enlarged but not restricted by a subsequent instrument duly executed. The Instrument of Accession was to be accepted by His Majesty in order to be valid. The King could reject any Instrument if it was not in proper form. The Joint Parliamentary Committee suggested that all the Instruments of Accesssion should be similar in form, though the list of subjects accepted as Federal by States might not be identical in all the cases. The Rulers of Indian States and His Majesty's Government were not able to come to any agreement about the language of the Instrument and the conditions on which the former were to federate, though they were the subject of discussion for several long years.

It is interesting to observe that, while the States desirous of joining the Federation were given the freedom to choose the subjects the power to legislate concerning which they were to surrender to the Federal Legislature, on such liberty was conceded to the British Indian Provinces which were made units of the Federation compulsorily.

It may also be stated in passing that the Federal Legislature was to have nothing to do with the accession of the States for the first twenty years after the establishment of the Federation. After that period all requests for accession were to be sent through the Governor General who would not forward and of them to the King

unless an address was presented by both the Chambers to the King that the State may be admitted.

The Federal Government

Introductory.— The Federation of India was to consist of the eleven Governor's Provinces, six Chief Commissioner's Provinces and such Indian States as might have given their assent to accede to it. The following were the Governor's Provinces : Bombay, Bengal, Madras, Assam, Bihar, Orissa, the Central Provinces, the United Provinces, the Punjab, the N. W. F. Province, and Sind. Burma was separted from India. Sind and Orissa were separated from the provinces of which they formed parts under the Act of 1919, and made into independent units. Delhi, Ajmere-Merwara, Coorg, British Baluchistan, Panth-Piploda and Andaman and Nicobar Islands were the six Chief Commissioner's Provinces. All of these provinces were to be members of the proposed Federation compulsorily. The Indian States were given option to accede to it at their will.

The executive authority of the Federation was vested in the Governor General as the representative of the King. The Legislative authority was vested in the Governor General as the representative of the Crown and two chambers known as the House of Assembly and the Council of State. For the interpretation and protection of the Constitution and the adjudication of disputes between the Federation and its units or between the units themselves, provision was made for the establishment of a Federal Court. For the administration of Federal Railways the Act provided for the creation of a statutory body known as the Federal Railway Authority ; and for the maintenance of the financial stability of the Federation, the control of currency and credit, and the issue of bank-notes the establishment of a Reserve Bank was made an indispensable condition of the Federation coming into existence. The Reserve Bank started its operations in 1935, and the Federal Court came into existence on October 1, 1937. The other federal organs never came into existence. We shall describe their composition, powers and functions briefly.

The Federal Executive

The Governor General.— The executive power and authority of the Federation was vested in the Governor General as the

representative of the King, who was to exercise it on behalf of His Majesty either directly or through officers subordinate to him. Before describing the modes in which this executive authority was to be exercised, it is necessary to look into its extent. It covered (a) all matters with respect to which the Federal Legislature had the power to make laws, (b) the raising in British India on behalf of the Crown of naval, military and air forces and the governance of His Majesty's forces whose expenses were met out of Indian revenues, and (c) the exercise of rights possessed by treaty, usage or any other lawful means in relation to tribal areas. The executive authority did not extend in any province to matters with respect to which the Provincial Legislature had the power to make laws, save as expressly provided in the Act. In the States it extended only to those matters in respect of which the Federal Legislature was given the power to make laws by the Instrument of Accession and in so far only as it was not reserved to the State concerned. It should be remembered that the executive authority of every State even with regard to subjects coming within the scope of the Federal Legislature remained unless it was expressly excluded by the Instrument of Accession. Here is another difference between the States and the Provinces of British India so far as the scope of the Federal Executive authority was concerned.

It should be observed that as a result and with the establishment of provincial autonomy the scope of the executive authority of the Government of India over the Provincial Government was very much diminished. Unless some special responsibility of the Governor General was involved, he was not to interfere in the administration of the subjects included in the Provincial List. This stands in sharp contrast to what prevailed under the Act of 1919.

Besides being the head of the civil administration, the Governor General had also the supreme command of the military, naval and air forces in India. But this command was rather nominal; the real authority lay with the Commander-in-Chief who was appointed by His Majesty and exercised such functions in relation to the armed forces of the Federation as were assigned to him.

In addition to the executive authority and power vested in him by the Constitution as the Head of the Federal Executive, the Governor General also exercised such preprogative powers of the Crown as His Majesty granted to him, provided they were not inconsistent with the Act; *e. g.*, the powers of conferring decorations

and honours and the grant of commissions in the Indian Army. It may also be added that the office of the Governor General as the representative of the Crown in relation to the Federation was distinct from the office of His Majesty's representative as Viceroy in relation to the states ; and it was open to His Majesty to appoint two persons to hold these two high offices or to give charge of both to one person only. Both the offices were held by one and the same individual till the end of British rule in India.

The Governor General was appointed by the King on the advice of the Prime Minister on an annual salary of Rs. 250,800. He also received a number of allowances fixed by the King-in-Council The total amount the country was required to spend on him came to about eighteen lakhs a year. No other official in the world received such a high salary and allowances. During his absence on leave the Acting Governor General received the same salary and allowances as the Governor General. All these sums were a charge on Indian revenues ; they were exempt from the vote of the Legislature.

Different Modes of Exercising Executive Authority.—Under the Act of 1919 the entire executive authority of the Government of India was vested in the Governor General-in-Council who was responsible to the Secretary of State and not to the Legislature. It could be exer cised in one way only. But under the Act of 1935 the conditions were to be different. Some power had to be transferred to the people and some retained in British hands. The executive authority of the Federation vested in the Governor General was therefore to be exercised in the ways more than one.* In so far as there was transfer of power to the people's representatives, the Governor General had to act in one way ; in so far as he was not to be guided by their wishes, he was to act in a different way. The entire field of federal government was thus divided into two parts ; one was the sphere of ministerial responsibility, and the other was reserved to the Governor General. Four of the federal subjects, namely, foreign relations, defence, ecclesiasical affairs and tribal areas were to be administered by the Governor General himself For their administration he was responsible to the Secretary of State ; he was not constitutionally bound to consult his ministers. They could not legally complain, if he ignored their existence. Since it is impossible for a single individual to administer such important and big departments, the Act allowed the Governor General to appoint not more than three

Counsellors to help and advise him in their administration. The salaries and conditions of service of the Counsellors were to be laid down by the King-in-Council. Each one of the Counsellors was to be an *ex-officio* member of both the Chambers of the Federal Legislature to represent his department. He was to have the right to take full part in debates but not the right to vote. The Instrument of Instructions to be issued to every Governor General at the time of his appointment was to direct him to consult his Council of Ministers in the administration of the Defence department. In the administration of the four reserved departments the Governor General was said to act *in his direction.* There were other important and vital matters also where he was entitled to act *in his direction.* Some of them will be enumerated later on. The Governor General was said to act in his discretion when he took decision on his own responsibility and was not required by law to consult his ministers. In other words, the sphere where he was to act in his discretion lay outside the scope of ministerial responsibility. Whenever he was to act thus, the Governor General was responsible to the Secretary of State and through him to the British Parliament.

Council of Ministers.—The remaining federal subjects were to be administered by the Governor General with the help anda dvice of his Council of Ministers. The Council of Ministers. was to contain not more than ten person. The Ministers were to be chosens and appointed by the Governor General ; they were to hold office during his pleasure and could be dismissed by him at his discretion. The Instrument of instructions prescribed the manner in which the Governor General was to appoint his Council of Ministers. He was to appoint them in consultation with a person who was most likely to have a stable majority in the House of Assembly; *i. e*, in the same way in which the King of England chooses his Cabinet. Though neither the Act nor the Instrument of Instructions directly made mention of the office of Prime Minister or Premier, the person who was the leader of the majority group in the House of Assembly and on whose advice the Council of Ministers was to be selected—was to function as one. The Governor General was also directed by the Instrument of Instructions to encourage the spirit of collective responsibility of the Council of Ministers and also to include in it members of important minority communities and the representatives of the states. As to how these two seemingly inconsistent requirements were to be fulfilled,

the Instrument was silent. The Ministers would naturally have been appointed from among the members of both the Houses of the Federal Legislature. A minister was to cease to hold office if for a consecutive period of six months he was not a member of either House of the Legislature. The salaries of the Ministers were to be determined by an Act of the Legislature and were not to be varied during their tenure of office. This meant that the Legislature was deprived of the valuable right of proposing a cut in the salary of a Minister as a motion of no-confidence in him. The salaries were not to be annually voted. Nevertheless, the ministers were reponsible to and removable by the Legislature. Unlike the Executive Councillors under the Act of 1919 and the Counsellors under the Act of 1935, they were to answer for their policies and actions before the Legislature. They were bound to give effect to the declared wish of the Legislature in the administration of the departments subject to their control. According to the letter of the law it was the duty of the Governor General to allocate the portfolios among them, but in actual practice it was expected that it would be done by the Prime Minister. The Governor General could preside at the meetings of his Council of Ministers in his discretion.

As far as the administration of the transferred subjects was concerned, the Governor General was legally bound to consult his Ministers, but in certain cases where he had special responsibilities, the Act empowered him to dissent from their advice and act as he thought proper. In such a case he was said to act *in his individual judgment.* The Act gave him the power to act in his individual judgment in some 32 cases. The distinction between the Governor General acting *in his discretion* and the Governor General acting *in his individual judgment* must be clearly understood. When he was to act in his discretion he need not have consulted the Ministers; such matters lay outside the field of ministerial responsibility. Where he was empowered to act in his individual judgment, he was required by law to consult his Ministers but was not bound to accept their advice. These subjects lay within the area of ministerial responsibility but constituted the special responsibilities of the Governor General. In the rest of the administrative field where he had neither discretionary powers nor special respoasibilities, he was to act on the advice of the Council of Ministers.

We may thus distinguish three different ways in which the

Governer General was to exercise the authority vested in him as the head of the civil administration. He could (*i*) act in his discretion, (*ii*) exercise his individual judgment, and (*iii*) act on the advice of the popular ministers. It is only in matters where the administrative action was taken on the advice of responsible ministers that popular government may be said to have been conceded. In so far as the Governer General used his discretion or exercised his individual judgment there was no transfer of power to the people. In order to determine the degree and extent of responsible government in the Federal sphere we must therefore know when and where the Governer General could act independently of his Ministers or overrule them.

Discretionary Powers of the Governor General.—There are no less than 94 different sections of the Act which make a mention of the power of Governor General to act in his discretion. It is not necessary to refer to all of them; we shall mention the more important items and add a few words by way of comment.

1. Administration of the Defence Department, Foreign relations excluding relations with the Dominions, Ecclesiastical Department, and Tribal Areas. These were the four reserved subjects. The first two are the most vital and important. There could be no real Swaraj or self-government without the control of the people's representatives over *defence* and *foreign* relations. To say nothing of popular control over these vital subjects, the Ministers would have got little opportunity to influence the military and foreign policy of the federal government. All that was conceded to the people was that the Instrument of Instructions directed the Governor General to encourage joint consultation between the Ministers and the Counsellors. In view of the inclusion of a similar provision in the Instrument of Instructions to the Provincial Governers under the Act of 1919 and its neglect by them, no hopes could be built on this provision.

2. Choosing, summoning, and dismissal of Ministers. The way in which the late Mr. Allah Bux, the Premier of Sind, was dismissed by the Governor of Sind, even though he had the support of a majority in the legislature invests the power to dismiss a Minister with great significance.

3. Presiding at meetings of the Council of Ministers.

4. Appointment of the Counsellors, Financial Adviser and his staff and the determination of their salaries, allowances and

conditions of service, the appointment of the Chief Commissioners; the appointment and the removal of the Governor and the Deputy Governor of the Reserve Bank and the approval of their salaries and allowances; the appointment of 3/7 of the members of the Federal Railway Authority and the President thereof, the appointment of a panel to form a Railway Tribunal and the selection of persons to constitute the Tribunal; the appointment of the President of the Railway Tribunal, of the Directors and Deputy Directors of Indian Railway Companies, of temporary and additional Judges of High Courts and of the Officiating Chief Justice; the appointment of the Chairman and members of the Federal Public Service Commission and the determination of their salaries, tenure of office and conditions of service.

One may understand that the Ministers may not be consulted in the appointment of Counsellors since they were to be responsible to the Governor General, but the taking away of political patronage from their hands and leaving the power to appoint so many high officials to the Governor General cannot be defended on rational grounds. It simply meant concentration of power in the Governor General.

5. Making of rules for (*i*) the convenient transaction of governmental business and the distribution of work among the Ministers, (*ii*) keeping the Governor General informed, and (*iii*) the authentication of the orders and instruments of the Government. The value and importance of this rule making power can be best understood from the fact that its exercise was one of the reasons which led to the domination of the Governor General over his Executive Council. He had also the power to make regulations necessitating consultation with the Public Service Commission regarding appointment to the posts under Federation. He also made regulations for the peace and good government of British Baluchistan, Andaman and Nicobar Islands.

6. The various powers conferred on him in connection with the legislature, *e. g.*, of summoning, proroguing its sessions and dissolving the lower House, sending messages regarding Bill, summoning of the joint meetings of the two Houses, disallowing the introduction of certain Bills and the refusal of assent to Bills passed by it or reserving them for His Majesty's pleasure, and the giving of previous sanction for the introduction of

certain Bill.

7. The work of legislation; *i. e.,* the enacting of Governor General's Acts, promulgation of ordinances.

8. Issuing of emergency Proclamation, suspending the constitution and assuming specified powers to himself, issuing instructions to Governors for promulgating ordinances, control over and issuing directions to Governors acting in their discretion or exercising individual judgment.

The list is illustrative only and not exhaustive. It is, however, sufficient to reveal the extent of the real power vested in the Governor General.

Special Responsibilities and other powers of the G. G.— Within the ministerial field the Governor General had certain special responsibilities in the discharge of which he could ignore the advice given by his Council of Ministers and act in his individual judgment. They constituted a special feature of the 1935 constitution. They were necessitated by the transfer of power to the people. The Act laid down the following special responsibilities of the Governor General.

1. Prevention of any grave menace to the peace or tranquillity of India or any part thereof.

2. The safeguarding of the financial stability and credit of the Federal Government.

3. The safeguarding of the legitimate interests of the minorities.

4. The securing to, and to the dependents of, persons who are or have been members of the public services, of any rights provided or preserved for them by or under the Act and the safeguarding of their legitimate interests.

5. Prevention of commercial discrimination in the sphere of executive action.

6. Prevention of action which would subject goods of the United Kingdom or Burmese origin imported in India to discriminatory or penal treatment.

7. Protection of the rights of any Indian State and the rights and dignity of the Ruler thereof.

8. The sceuring that the due discharge of his functions with vespect to matters regarding which he is by or under this Act required to act in his discretion or to exercise his individual judgment

is not prejudiced or impeded by any course of action taken with respect to any other matter.

We shall add a few words about these special responsibilities. Indian opinion took strong objection to them on the ground that they 'remove the most considerable part of governmental routine from the hands of the responsible popular Ministers.'* They were calculated to strengthen the executive independence and thus militated against the development of responsible government. They prevented the Governor General from becoming the constitutional head with respect to the transferred subjects. They were also very vague and ill-defined and provided to a reactionary and autocratic Governor General a handle to thwart national progress. As Dr. Sir Shafat Ahmad Khan remarks in his volume on Indian Federation 'the field of special responsibility permeates the whole administration, and it is difficult to suggest any subject...... in which it may not emerge any moment'. They represented safeguards against the risk to British interests involved in the transfer of political power to the people.

Law and order was one of the departments under the control of a responsible minister. But the special responsibility of the Governor General for the prevention of any grave menace to the peace and tranquillity of India or any part thereof gave him the power to take any steps he liked to combat terroristic activities, revolutionary plans, and civil disobedience movements irrespective of the wishes of the Councils of Ministers. Not only that, under cover of it he could overrule any measure proposed to be adopted by any other branch of administration, if he considered it to be ill-advised and likely to be a menace to the peace and tranquillity of any part of India ; *e. g.*, the proposal to declare Jan. 26 a public holiday or a measure to abolish permanent settlement or change the system of land tenure.

Finance was also one of the transferred departments under the control of a popular minister. British vested interests apprehended danger to themselves from the financial policies a nationalist finance minister might adopt. There were also the Home Charges and the Public Debt of India against which there had been some talk in India. All these required to be safeguarded against any inroads nationalist forces might have made. Hence the Governor General was charged with the special responsibility of safeguarding the financial

* K. T. Shah : *Federal structure*, pages 160—61.

stability and credit of the Federal Government. To assist him in the discharge of this very vital responsibility, he was to appoint a Financial Adviser whose staff, salary and conditions of service were to be determined by him acting in his discretion. He was to hold office during his pleasure. The Financial Adviser would have been available to the Federal Government for consultation in financial matters. Except in the appointment of the first Adviser, the Governor General was io consult his Minister as to the person to be selected for the post.

The responsibility for safeguarding the legitimate interests of the minorities does not call for any comment except that it was inserted in order to satisfy the minorities and allay their fears that the majority community may not act in an arbitrary and tyrannical manner. The responsibility for protecting the interests of the Public Services was also introduced for a similar reason. But it is far more important than the other ; it had the effect of placing the members of the Services beyond the control of the ministers under whom they were to serve and whose policies and decisions they had to carry out.

India was held by the Britishere as one of the best markets for British manufactured goods and the investment of British capital, as well as a source for the supply of raw material. British trading and commercial interests were much afraid that a self-governing India would adopt measures which would injure their trade and investments. Responsibility for the prevention of discrimination against such measures was included as a sop to them.

The responsibility mentioned last of all simply means that the Governor General was, authorised to take steps to ensure that no action taken by any department will impede the discharge of his special responsibilities. In addition to the above mentioned special responsibilities there were other occasions also where the Governor General was to exercise his individual judgment ; *e. g.*, promulgating ordinances under special emergencies, nominating and removing the directors of the Reserve Bank of India, making of rules for the convenient transaction of business between the Federal Government and the Federal Railway Authority, and appointing the High Commissioner for India and determining his salary and conditions of service.

Summary.— It would thus appear that the Governor General

was not meant to be merely a constitutional head even in regard to the administration of the *transferred* subjects. He was expected to exercise an influence on their administration, both legitimate and constitutional, to an extent to which it is difficult to find an analogy in the constitution of any democratic country in the world. He was to be the pivot of administration. It is interesting to note that the Council of Ministers did not form part of the 'government'; all executive authority was vested in the Governor General and was to be exercised in his name. The ministers had no authority to issue orders or take formal decisions; technically their function was merely to advise the Governor General. It may also be pointed out that there was no legal provision for enforcing the responsibility of the ministers to the legislature. They held office during the pleasure of the Governor General, and even their salaries could not be altered during their tenure of office. Ministerial responsibility was to develop as a result of conventions.

The Governor General had vast administrative, legislative and financial powers. It is not necessary to describe them in any detail; they were involved in the exercise of his discretionary powers and the right to act in his individual judgment. Mention may however be made of the extraordinay powers of legislation given to him by the Act. They were of two kinds. He could enact what were known as Governor General's Acts without consulting, nay even in opposition to the wishes of, the legislature. If he thought that for the purpose of discharging satisfactorily his functions in respect of matters where he had to act in his discretion or exercise his individual judgment some legislation was necessary, he could, in a message, explain the circumstances to the Legislature, and enact a Governor General's Act embodying the necessary provisions. If he liked, he could send a draft of the Act to the Legislature and consider any suggestions the latter might make. It was, however, not necessary to do so. Secondly, he had the power to issue Ordinances. These again were of two kinds. If the Legislature was not in session and an emergent situation arose requiring immediate action, he could promulgate an ordinance on the advice of his Ministers. If necessary, he could exercise his individual judgment in such a case. Such an ordinance was to have all the force of law, but was to be placed before the Legislature, and was to cease to have effect if it were not passed by it within six weeks of the commenecement of the session.

The Governor General had also the power to promulgate an ordinance *at any time* with regard to subjects coming within his discretion and special responsibilities. Such an ordinance could not remain in force for more than six months at a time but could be renewed for a further period of six months by another ordinance. The fact of such an extension was to be communicated to the Secretary of State who was required to place it before both the Houses of Parliament.

These legislative powers of the Governor General had no parallel in democratic states. They were, however, necessitated by the special responsibilities and powers given to the Governor General in administration.

Advocate General.— Provision was also made for the appointment of an Advocate General for the Federation. He was to be appointed by the Governor General acting in his individual judgment. His remuneration was to be determined in like manner. His qualifications were to be those of a judge of the Federal Court. It was to be his duty to advise the Federal Legislature in legal matters and perform such other functions as might have been assigned to him by the Governor General. He was not expected to have any political affiliations with the Ministry. He had the right to address both the Houses of Legislature and held office during the pleasure of the Governor General.

The Instrument of Instructions.—A few words may be added about the Instrument of Instructions which was a document of great importance. It was through it that the elements of responsible government were sought to be introduced in the Federal Government and in the Provincial Governments as well. It should be remembered that in the Government of India Act of 1935 there was not a word about the principle of collective responsibility of the Council of Ministers, or about the requirement that they should enjoy the confidence of the legislature. In laying down that the Governor General should appoint his Ministers in consultation with a person who was most likely to have a stable majority in the Legislature and that he should foster the spirit of joint responsibility, the Instrument introduced responsible government. It also directed the Governor General to include representatives of important minority communities and the States, and contained instructions as to the manner in which he was to exercise his special powers and discharge his special

responsibilities. It also directed him to consult his Ministers in matters pertaining to the defence of the country and the Indianisation of the Army or the employment of Indian troops abroad. It is thus clear that the Instrument of Instructions was to be made the vehicle of the development of responsible government in the country.

It was to be issued by the King to the Governor General at the time of his appointment. Its draft was to be prepared by the Secretary of State and was to be laid before Parliament. No further action could be taken unless an address was presented to His Majesty by both the Houses praying that the Instrument be issued. The same procedure had to be gone through in issuing a subsequent Instrument modifying, amending or revoking the provisions cf an Instrument previously .issued. Parliamentary approval of the Instrument was thus made indispensable. This practice stands in sharp contrast with that adopted in issuing Instruments of Instructions to the Governors General of the Dominions.

Although the Instrument possessed great constutional significance and importance, it could not be legally enforced through a court of law. No legal notice could be taken of any action on the ground that it was inconsistent with its provisions. The validity of the appointment of interim minority ministries by the Governors which did not enjoy the confidence of the majority party in various provincial legislatures could not thus be called into question. If the Governor General failed to encourage the spirit of joint responsibility, or appointed his Council of Ministers otherwise than was provided for in the Instrument, the people of India had no remedy. The Instrument was thus highly defective as a weapon of evolving responsible government.

Safeguards.—The foregoing description of the discretionary powers and special responsibilities of the Governor General should make the nature of the *Safeguards* clear. The safeguards constituted as vital a feature of the Act as the proposal to transfer power to the people. Without the former, the latter could not have been feasible.

The idea of safeguards was first suggested by the Simon Commission. It was accepted by the R. T. C. at its first session. Sir Tej Bahadur Sapru said : 'Provide as many safeguards as you

can so long as these safeguards do not destroy the vital principle, and then go ahead with courage and with faith.' Mahatmaji had also accepted the principle of safeguards when he agreed to proceed to London to participate in the second session of the R. T. C., on the distinct understanding that they were to be devised in the interests of India. But in the form in which they were actually incorporated in the Act of 1935 they were designed to protect the interests of British Imperialism and its allies, and not to promote the Indian interests. They had their root in the distrust of Indians and the desire to exploit the communal problem to further British imperial interests. 'As the Indian Princes are opposed to democracy and the Muslims to majority rule, our British rulers find it a fine opportunity to exploit their fears for their own ends. The 'safeguards' are thus intended to safeguards the interests of these three parties—the British, the Muslims and the Indian Princes. From the point of view of the British, the All-India Federation is the biggest safeguard for the continuance of their connection with India for all time to come. The Federal Centre is so devised as to make it impossible for the extremists to get control of it.'*

The Federal Legislature

Introductory.—The Act of 1935 provided for the establishment of a Federal Legislature consisting of His Majesty, the King, represented by the Governor General, and two houses to be known as the Council of State and the House of Assembly. The institution of a bicameral legislature was not an innovation; the Central Legislature was constituted on this basis under the Act of 1919. A federal constitution also envisages a bicameral legislature; one house represents the units of the federation and the other the people or the nation. What was new was the association of King with the legislature in a direct manner. No reasons were assigned for the change. It was not important.

The Council of State.—The upper chamber which was to represent the federating units and was to be known as the Council of Sate was to consist of 156 representatives of British India and *and more thau 104* representatives of Indian States. The actual number of the representatives of the States at any time was to depend upon the number of States acceding to the Federation. It

* **Punniah:** *op. ct.,* **page 319.**

could not however be less than 52; for otherwise the federation could not have been brought into existence. The total number of seats was distributed among the various States in accordance with their relative rank and importance as indicated by their dynastic salute and other factors. Thus Hyderabad was given five seats; Mysore, Kashmere, Gwalior and Baroda three each; and Travancore, Cochin. Udaipur, etc., two each. It is not necessary to enter into details.

The representatives of the States were to be *nominated* by their rulers. The Act did not lay down that the people should be consulted by the Rulers of the States in the choice of representatives. Though theoretically possible, such consultation was not at all to be expected. Representatives nominated by the rulling Princes were expected to serve the interests of their masters and become the tools of the Paramount power. This was the reason why Indian public opinion was much against this provision of the Act. Of the 156 representatives assigned to British India 150 were to be elected by the citizens on a communal basis, and six were to be nominated by the Governor General in his discretion in order to secure the representation of women, minorities and the Depressed classes. Into the details of the distribution of the seats among the provinces and the various communities in each province it is not necessary to go. But it should be borne in mind that the unit of the Federation were not equally represented in it. In this respect it differed radically from the **American** Senate and the Swiss Council of States. General seats, and the seats reserved for Muslims and Sikhs were to be filled by direct election, while those reserved for Europeans, Anglo-Indians Christians were to be filled by indirect election. The members representing each one of these communities in the various provincial legislatures were to form an electoral college for the choice of the representatives of that community. Scheduled class representatives were also to be elected in the same indirect manner. All the members of a provincial legislature, men and women, were to be electors for fiilling the seat reserved for women from that province. Though the franchise was not determined, it was expected to be based on high property qualifications. The Council of State was bound to be a highly plutocratic and aristocratic body. It was to be a permanent body, not liable to dissolution at any time, like the American Senate. One third of its members were to retire every three years. Members were to be elected for a nine-year term. In

its permanent tenure it differed from the Council of States as constituted under the Act of 1919.

The House of Assembly.—It was to be the lower house of the Federal Legislature, and was to represent the people of India. It was to consist of 250 representatives of British Indian Provinces and *not more than* 125 representatives of Indian States. As in the Council, the representatives of Indian States were to be *nominated* by the rulers; they were not to be elected by the people of the states. The representatives of British India were divided among the various provinces and in each province among the various communities and interests. For purposes of representation the following constituencies were recognised : General ; 105, (inclusive of 19 seats for Scheduled Classes and representing Hindus, Parsees and such other communities as did not seek the right of separate communal representation); Scheduled Classes 19, (as under the Poona Agreement); Muslim, 82; Sikh, 6; Indian Christian, 8; European, 8; Anglo-Indian, 4; Commerce and Industry, 11; Landholder, 7; and Labour, 10. Women, too, were given nine seats. In short, the Act of 1935 carried the vicious principle of communal representation very mnch further than was done by the Act of 1919. The New Constitution has abolished the system. The seats assigned to the Indian States were distributed among them. Hyderabad had 16 seats, Mysore 7, Travancore 5, etc. Details are unnecessary.

The Assembly was to be constituted for a five-year term (under the Act of 1919 it was a three-year term) ; it could, however, be dissolved before the expiry of its term by the Governor General. Though the Assembly was to represent the nation (as distinguished from the units of the federation), it was to be constituted *indirectly*. It was a very curious provision ; nowhere in the world is the popular house indirectly constituted. It was suggested by the Simon Commission. Sir Samuel Hoare advanced some arguments in support of the scheme of indirect election into which it is npt necessary to go. Another important point to be borne in mind about the composition of both the houses was the abolition of the bloc of nominated official and non-official members except for the presence of six members who were to be nominated by the Governor-General to the Council of State. It would be remembered that it was the presence of a sufficiently large bloc of official and nominated non-official members in the provincial legislatures under the Act of 1919 which prevented

the true spirit of ministerial responsibility from developing under Dyarchy. Muoh, however, must not be made of this point ; the representatives of the Indian States who were to be the *nominees* of the ruling Princes would have played almost the same role in the Federal Legislature as was played by the official and nominated non-officials in the older set-up. In this connection it should also be remembered that the States were over-represented in both the chambers. In the council they had more than 40% of the seats, and in the Assembly $33\frac{1}{3}\%$, whereas their population was about 24% of the total population of India. This excessive representation becomes all the more significant and objectionable when it is remembered that the States' representatives were to be the nominees of the ruling chiefs. The presence of this large bloc of nominees of the States and the method of indirect elections to the Assembly made the House undemocratic in character. It is interesting to note that the Hindus who constituted more than 70% of the population of British India were given only 105 seats (inclusive of 19 seats reserved for the Seheduled classes), while the Muslims, Sikhs, Europeans, Indian Christians, and Anglo-Indians who formed less than 30% of the total population were also given the same number of seats. 28 seats were held by the representatives of Landlords, Commerce and Industry, and Labour. The Hindus were thus reduced to a minority in the Assembly as a whole. The Europeans and Anglo-Indians were given highly excessive representation. This peculiar composition of the Assembly was perhaps the greatest safeguard of vested British interests. It may also be noted in passing that the distribution of seats among the provinces of British India was not made on the basis of population. Bengal, Madras and the U. P. got the same number of seats, *i. e.*, 3 each, though there was considerable difference in their population which was 50·1, 44·2, and 48·4 millions respectively. Bombay with only 18·2 millions got away with 30 seats, while C. P. with its 15.5 millions was given fifteen only.

The adoption of indirect election for constituting the House of Assembly was one of the weakest points of the federal scheme as outlined in the Act. It would have seriously retarded the growth of national unity and patriotism, for issues concerning India as a whole would not have come up before the masses who would have been concerned only with provincial problems. Instead of developing a national outlook, they would have been generally led to view

things and problems from a provincial point of view. Elections would have deen fought on provincial issues, and federal issues would have suffered. This objection against indirect election was very forcefully put before the House of Commons by Sir Herbert Samuel who spoke as follows : 'The Indians want their country to be one unit. They want their country to be visibly one great nation. The main achievement of British rule during the last two centuries has been that for the first time it has created a united India in some degree. That is an unchallengeable achievement of the British connection, which is welcomed by Indians of all shades of opinion .... they want an Assembly which will represent India as such, This is not a measure which will secure the representation as such. of a united, a single India, a great nation standing visibly one and indivisible in the face of the whole world. It will be merely a collection of representatives of ten or twelve different provinces. That is what the Indians do not desire, and that is the chief underlying reason why the Central Legislature should be directly created by an all-India electorate and should be chosen on all-India issues.' In the second place, it would have made the dissolution of the Federal Assembly a useless thing for the solution ofdifferences between it and the Federal Government. There would have been no public opinion to which either the members or the Government could appeal. Each member would have some six or seven persons of the provincial legislature who elected him and who would have again sent him back. Dissolution of the Assembly would have thus become perfectly futile. There was also some danger that the system would create corruption.

The arguments against indirect election were weighty ; those in favour of it were unconvincing. The proposal to constitute the Upper House on a direct basis and the Lower House on an indirect basis had no precedent in the world ; it was contrary to all principles and traditions. Progressive Indian opinion demanded a reversal to the practice of direct election to the Lower House.

Since elections to the House of Assembly were to be indirect, the question of franchise did not arise. The Assembly was to have a tenure of five years, but could be dissolved earlier by the Governor General. He could not, however, extend. its life. It was empowered to elect one of its members as the Speaker and another as the Deputy Speaker. The Speaker was to preside at its meetings and perform the usual duties of the presiding officer of a legislature. He

was not to vote in the first instance but bould have given his casting vote in case of an equality of votes. He could at any time resign his office by writing to the Governor General to that effect, and could be removed from office by a vote of the Assembly. Similar remarks apply to the presiding officer of the Council of State who was to be known as the President.

Qualifications and Privileges of Members.— No one could be a member of both the Houses. No one could be a member of either Chamber of the Federal Legislature and of a Chamber of a Provincial Legislature. Persons holding an office of profit under the Crown in India, or who were declared to be of unsound mind by a court, or were undischarged insolvents, or were convicted of any offence or corrupt practice relating to elections, or had been sentenced to transportation or imprisonment for not less than two years and provided five years had not elapsed since their release, were not eligible for membership of the Federal Legislature. A member of the Council of State could not be less than thirty years and that of the House of Assembly not less than 25 years of age. No one could be chosen a member of either Chamber who was undergoing a sentence of imprisonment or transportation for a criminal offence. A member would have lost his seat if he had failed to lodge a return of his election expenses.

Every member of either Chamber had to take an oath of allegiance to the King before taking his seat. The members were assured of freedom of speech, subject to the rules and regulations of the Chamber to which they might have belonged. No member was liable to any proceedings for anything said in the House or a vote given there. They were to receive such salaries and allowances as might be determined from time to time by an Act of the Legislature. Other privileges were to be such as might be defined by an Act of the Legislature.

Powers of the Legislature.— The powers and functions of the Federal Legislature may best be discussed under four heads : legislation, deliberation on and formation of national policies, finance and control over administration, and enforcement of ministerial responsibility.

(*a*) *Legislative Powers.*— The Federal Legislature was given *exclusive* powers to make laws on all the subjects mentioned in the Federal List for the whole of British India or any part thereof, and

for the Federating States on such subjects as were specified in the Instruments of Accession and to the extent to which the Princes federating might have agreed. It could also make laws for all British subjects domiciled in any part of India, and also for ships and aircraft registered in British India or any Federated State and for persons on them. No provincial legislature was authorised to legislate on any subject named in the Federal List.

The Federal Legislature was also empowered to legislate on subjects stated in the Concurrent List. This power was not exclucive ; the Provincial Legislatures also had the right to make laws on them. Under ordinary circumstances it had no authority to legislate on subjects included in the Provincial List. But in an emergency whereby the security of India was threatened, whether by war or internal disturbance, or where two or more Provinces by mutual consent requested it, the Federal Legislature could legislate even for the Provinces on a Provincial subject. This power of superseding the Provincial Legislature could be exercised only with the previous sanction of the Governor General given in his discretion. It should always be borne in mind that all legislatures in British India were non-sovereign legislative bodies ; their powers to make laws were restricted in several ways.

(*b*) *Formation of National Policy.*— The terms of the Constitution did not expressly provide for the exercise of this power by the Federal Legislature. It was however implied in its and power to move and discuss resolutions on important matters, discuss and pass the budget, and enforce responsibility on the ministers. The Central Legislature as constituted under the Act of 1919 also had this power. But, as has been pointed out in an earlier chapter, its resolutions, etc., were not binding on the executive ; they were merely recommendatory in nature. Under the Act of 1935 they would have been mandatory ; the ministers could disregard them only on pain of a vote of non-confidence. Of course, if they tonched upon the sphere where the Governor General was authorised to use his discretion or exercise his individual judgment, they were nothing more than more recommeandtions to which the executive might or might not pay heed.

(*c*) *Financial Powers.*— The extent to which a legislature can influence the formation of national policies and enforce responsibility upon the executive depends upon its financial powers. 'He who controls the purse controls the administration.' In order to determine

the degree to which the Act transferred political power from the Bureaucracy to the people of India, one must have a precise knowledge of the financial powers of the Federal Legislature under it.

It was the duty of the Governor General to get prepared every year a statement of the estimated receipts and expenditure of the Federation for the following year— it was to be called the 'Annual Financial Statement'— and cause it to be placed before both the Chambers of the Federal Legislature. The Statement was to show clearly (*i*) the sums required to meet expenditure charged upon the revenues of the Federation, (*ii*) the sums required to meet other expenditure proposed to be made from the revenues of the Federation, and (*iii*) the sums, if any, which were included solely because the Governor General had directed their inclusion as being necessary for the due discharge of any of his special responsibilities. The distinction between (*i*) and (*ii*) was very important and fundamental, and must be grasped fully. Under class (*i*) were included all those items of expenditure which did not require any vote of the Legislature: they were a charge upon federal revenues. The Governor General could authorise expenditure on them without any reference to his Council of Ministers or to the Legislature. They covered about 75 to 80 % of the total expenditure. They were as follows :

(*a*) The salary and allowances of the Governor General and other expenditure relating to his office for which provision was required to be made by an Order-in-Council.

(*b*) Debt charges for which the Federation was liable, including interest, sinking fund charges and redemption charges, other expenses relating to the raising of loans and the service and redemption of debt.

(*c*) Salaries and allowances of Ministers, Counsellors, the Financial Adviser, the Advocate general, Chief Commissioners, and of the staff of the Financial Adviser.

(*d*) The salaries, allowances and pensions payable to or in respect to or in respect of the judges of the Federal Court, and pensions payable to or in respect of the judges of any High Court.

(*e*) Expenditure for the discharge by the Governor General of his functions with respect to the reserved subjects, namely defence, foreign relations, tribal areas, and ecclesiastical affairs.

(*f*) The sums payable to His Majesty under the Act out of the revenues of the Federation in respect of expenses incurred in

discharging the functions of the Crown in relation to the Indian States.

(*g*) Any grant connected with the administration of excluded areas in any Province.

(*h*) Any sums required to satisfy and judgment, decree or award of any court or arbitral tribunal.

i) Any other expenditure declared by an Act of the Federal Legislature to be so charged.

Whether or not any proposed demand for a grant fell under the non-votable head was to be decided by the Governor General in his discretion, and his decision was final.

Though these items were not subject to the vote of the Legislature, it was at liberty to discuss any of them excepting the salary and allowances of the Governor General, and the sums, payable to His Majesty under (*f*) above.

Expenditure on items included in (*ii*) was subject to the vote of the Legislature ; it could not be incurred by the executive unless it was sanctioned by the former. It came to about 20 to 25 % of the total expenditure. Even in this limited sphere the control of the Legislature was not complete. It was open to the Governor General to include in the authenticated schedule of authorised expenditure any demand for grant that might have been reduced or refused by the Assembly, if it appeared to him necessary for the proper discharge of any of his special responsibilities. It would thus appear that the financial powers of the Federal Legislature were highly circumscribed. The existence of expensive departments like those of defence and foreign relations which were wholly removed from ministerial control and the power of the Governor General to sanction expenditure where his special responsibilities were involved put serious limitations on the power of voting supplies possessed by the Legislature.

For a better understanding of the powers of the Legislature as well as those of the Governor General in regard to federal finance it is necessary to know the procedure in financial matters. The first step, as has been already hinted, was the submission of the Annual Financial Statement showing the estimated income and expenditure for the following year to both the Houses. No priority or pre-eminence was accorded to the Houre of Assembly over the Council

of State in this respect. Both the Houses then proceeded with a general discussion of the Budget as a whole. This gave to each of the Chambers an opportunity to review the administration in general, criticise the policies pursued by the Government in various departments and voice national grievances. It should be remembered that the Chambers were free to discuss all items of expenditure which were a charge upon federal revenues except the salary and allowances of the Governor General and expenditure in respect of the States. The general discussion constituted the second stage of the financial procedure. The third stage commenced when the various demands for grants were first submitted to the Assembly for its vote. It is hardly necessary to remind the reader that only about 20 to 25% of the total expenditure was subject to the Assembly's vote, the rest was a charge upon the federal revenues. The Assembly could either assent or refuse to assent to a demand for grant or reduce it ; it could not increase it. It could not propose any exenditure. It is in accordance with a sound principle of public finance that no demand for grant can be made except on the recommendation of the Governor General, and private members are debarred from proposing fresh expenditure. After the House of Assembly had voted upon each of the demands, as many of them as might have been passed by it or passed by it in a reduced form, were to be placed before the Council of State for its vote. In other words, the Act of 1935 gave the Upper Chamber an equal right to vote supplies. The only privilege enjoyed by the Lower House was that the demands for grants were in the first instance submitted to it, and if a grant was refused by it, it could not be placed before the Upper House unless the Governor General otherwise directed. If it reduced a grant, the reduced grant had to be put before the Council of State unless the Governor General directed that the original grant be put before it. The Act of 1935 thus introduced two innovations ; it conferred equal powers of voting supplies upon the Council of State, and permitted the Governor General to override the House of Assembly, if it reduced or refused a grant.

If the two Chambers disagreed about any demand for grant, *i. e.*, if one House refused a grant which the other passed, or reduced it by an amount not acceptable to the other, the Governor General had to call a Joint Session of the two Houses to decide the matter. The composition of the Chambers was such that in a great majority

of cases the will of the Governor General would have prevailed. He could count upon the support of the State Representatives, who numbered about 229, the representatives of landlords, Europeans, Anglo-Indians and Commerce and Industry, who numbered about 40 in both the Houses, and also upon the votes of the communalists and the nominated members. The chances of popular will prevailing in the joint session were small indeed. After the two Houses had finished voting upon the grants, either singly or jointly, the Budget entered upon the fourth and last stage. The Governor General authenticated by his signature a schedule specifying the grants made by the Chambers and the sums charged upon the Federal revenues. While authenticating the schedule, he had the right to restore a grant refused by the Chambers or to restore a grant to its original figure might have been reduced by them, if in his opinion such a refusal or reduction would have affected the due discharge of any of his special responsibilities. The authenticated schedule was to be placed before the two Houses but was not open for discussion or voting thereon. It constituted the legal authority for expenditure during the year. If in any financial year additional expenditure became necessary, a supplementary budget had to be passed and the same procedure had to be gone through.

One other point deserves notice. The previous practice was that after the various demands for grants had been considered and passed by the Legislature, a Finance Bill was prepared and presented before the Assembly for its acceptance. On many occasions the Assembly rejected the Bill as a protest against the policy of the Government. According to the new financial procedure the authenticated schedule would have taken the place of the finance bill, and it would have been beyond the power of the Legislature to discuss, vote upon or reject it.

In several respects the new proposals were reactionary and unwelcome. The Council of state which was to be highly conseruvative in its composition was given almost equal powers with the House of Assembly in the sphere of finance. Above both, there was the power of the Governor General to restore any cuts or refusals made by the Legislature. Professor K. T. Shah sums up the financial position in the following words : 'Summing up the financial powers of the Legislature, we cannot but recognize that the field of finance open to the Legislature is strictly limited. Even in the limited field

every attempt is made to drown or neutralise the voice of the chosen representatives of the people in the Lower House. At every stage in the course of the passage of the annual budget through the Federal Legislature, the Governor General is given powers of intervention, suggestion, and dictation. The last word rests with the Governor General, and his word shall prevail, even after the combined vote of the two Chambers of the National Legislature has decided a case against the suggestion of the Governor General. As finance is the keystone of the arch of responsible Government, these restrictions on the authority and powers of the Federal Legislature in matters of finance tell their own tale of suspicion and distrust of the Indian politician, of a grim resolve of the British Imperialist elements to keep India subject and an undiminished field for their exploitation.'*

The other part of the Annual Financial Statement, namely, the estimated income for the year, need not detain us long. It contained the taxation proposals of the Government and other ways and means of providing revenues. No proposal for taxation or borrowing could come before the House except on the recommendation of the Governor General. All that the Legislature could do was to accept the proposals, refuse them or reduce the amount of a tax ; it could not increase any tax or propose a new one After having been passed by the Assembly, it was sent up before the Council of State. No proposal for imposing a tax could be moved in the Council of State at the first instance ; all such measures were to originate in the House of Assembly.

From the preceding discussion it will be clear that the initiative as well as the last word in financial matters rested with the Executive. In Great Britain also the initiative lies with the executive, but the final authority is Parliament. The Act gave co-ordinate and equal powers in financial matters to the two Chambers (except that financial bills could not originate in the Council of State) which is also contrary to the British practice according to which the House of Lords has no financial powers. This was a highly retrograde step to which Indian opinion was very much opposed.

(*d*) *Control over Administration.*— It was not directly provided for in the Act but was implied in the power of granting or withholding supplies, the right to move resolutions on matters of general

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**Federal Structure :* pages 322—23.

policy, motions of adjournment, and ask questions, granted to the Legislature by it. But for a detailed supervision of, and control over, the administration committees of different types appointed by the Chambers are the most important anduseful. As the Legislature never came into existence, no committee system could develop.

Relation between the Two Chambers.— The Act of 1935 gave to the Council of State and the House of Assembly equal and co-ordinate powers in legiasltion and finance except as regards the initiation of finance bills which could originate only in the Assembly. Both the chamers possessed equal and co-ordinate powers in legislation in so far as (*i*) any measure (other than finance bill) could originate in either house, and (*ii*) no bill could be presented to the Governor General unless it was passed by both the chambers in exactly the same form. If one of them passed a bill which was rejected by the other or passed by it with amendments which were not acceptable to the other, it lapsed ; it could not be sent to the Governor General for his assent. Differences between the two houses could be removed at a joint sitting called by the Governor General. Decisions were to be arrived at by a majority of votes of members of both the houses present and voting. Whereas under the Act of 1919 the Council of State had no right to grant supplies, the Act of 1935 conferred this power upon the upper chamber. All demands for grants were first to be submitted to the Assembly, and next to the Council in the form in which they were passed by the Assembly, unless the Governor General directed otherwise in his discretion. In other words, the Governor General could appeal to the Council of State against the decision of the Assembly. Disagreements between the two could be removed in a joint session. It may be pointed out that the Governor General had the power of restoring any grant reduced or rejected by both the chambers if he thought such a course necessary for the due discharge of any of his special responsibilities.

It would thus appear that the plutocratic and oligarchic Council of State, 40% of whose members were to be nominees of Rulers of Indian States, was to be one of the strongest second chembers in the world, almost as strong *vis-a-vis* the lower house as the American Senate like which it was to be a permanent and indissoluble body. The creation of an upper chamber, at once highly conservative and oligrachic and very powerful, was one of the noteworthy features of the Act of 1935 which had hardly any parallel

in the world. It was on a par with its novel proposal of a directly elected and indissoluble upper chamber and an indirectly elected, dissoluble and popular lower chamber. It is also important to remember that the Council could criticise the work of the Council of Ministers, ventilate public grievances through interpellations, motions of adjournment, etc. It was expected to play an important role in the making and unmaking of the federal ministry along with the lower house.

The Governor General and the Legislature.—The Act vested the Governor General with great powers not only of *legislation* but also powers *over the Legislature*. Reference to the former has already been made. He could enact Governor General's Acts and promulgate Ordinances over the head of the Legislature. These were extraordinary powers of legislation which are absolutely inconsistent with the principles of democracy, and are nowhere to be found in democratic states. But in countries having the parliamentary form of government the executive head is generally given some powers *over* the legislature. The Governor General of India was however vested with powers in relation to the Federal Legislature far in excess of those enjoyed, for example, by the King of England or the President of the French Republic. The more important of them are the following :

1. He could summon the Legislature to meet, prorogue its sessions, and dissolve the House of Assembly before the expiry of its term of five years. He was bound to call at least one session every year, and was not to allow twelve months to elapse without calling a meeting.

2. He could make rules regarding the disqualifications of members and was empowered to remove them in individual cases.

3. He could require the attendance of members to hear his address, and could call joint sittings of the two Houses under certain circumstances.

4. He had the power to make rules of procedure for regulating the business before either Chamber in respect of matters coming within his discretionary powers and the exercise of individual judgment ; *e. g*., the timely completion of financial business.

5. He could prohibit the discussion or the asking of questions on any matter (*i*) connected with Indian States other than those with respect to which the Federal Legislature had power to make laws,

(*ii*) pertainting to the relations of His Majesty or the Governor General withe any foreign power or Indian State, (*iii*) connected with the affairs of a Province, or (*iv*) dealing with the personal conduct of the Ruler of an Indian State or of a member of the ruling family thereof.

6. His previous sanction given in his discretion was necessary for the introduction of legislation which (*i*) repealed, amended, or was repugnant to the provision of any Act of Parliament extending to British India, (*ii*) repealed, amended or was repugnant to any Governor General's Act or an Ordinance promulgated by him, (*iii*) affected matters. in which he was authorised to act in his discretion, (*iv*) affected, repealed, or amended any Act relating to the police force, (*v*) affected the procedure laid down for the trial of Europeans in criminal cases, (*vi*) subjected persons not residing in British India or companies not wholly managed in British India to greater taxation than persons resident in India or companies wholly controlled and managed in British India, (*vii*) affected the grant of relief from any Federal tax on income taxed or taxable in the United Kingdom, (*viii*) affected the coinage or currency, or the constitution and functions of the Reserve Bank of India, or (*ix*) which aimed at prescribing professional qualifications. It should also be remembered that no measure which imposed a tax or proposed a fresh expenditure could come before the legislature except on the recommendation of the Governor General.

7. He could recommend certain classes of Bills to the Legislature and demand that his recommendations be accepted by it. Finance Bills and measures pertaining to the administration of the reserved subjects came under this head.

8. He could direct that no proceedings or further proceedings were to be taken in relation to a Bill, clause, or amendment to a clause in a Bill which in his judgment affected the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquility of India or any part thereof.

9. He had the power to assent to, withhold assent from, or reserve a Bill passed by the Legislature for His Majesty's pleasure. He could also return a Bill to the Legislature with the message that the Bill as a whole or some particular provisions of it may be reconsidered.

Restrictions on the Powers of the Legislature.— The Federal

Legislature was not a sovereign legislative body ; there existed several limitations on its law-making powers. In the first place, it had no constituent powers ; it could not alter, amend, or repeal the Government of India Act or any of its provisions. The right to determine the constitution of India was expressly reserved to itself by the British Parliament. In the second place, there were certain topics on which it was debarred from legislating ; *e. g.*, matters affecting the Sovereign, succession to the Crown, Army Act, Air Force Act, and Naval Discipline Act. Thirdly, there were subjects legislation on which could be introduced with the previous sanction of the Governor General given in his discretion. They have been enumerated above. Fourthly, as has been stated in a foregoing section, the Governor General and the King had the power to disallow Bills passed by it. There were bills of a certain character which the Governor General was constitutionally required to reserve for the signification of His Majesty's pleasure, *e. g.*, a Bill which derogated from the powers of a Hign Court in British India, a Bill passed by a Provincial Legislature which affected and altered the character of Permanent Settlement. Provisions of the Act dealing with discrimination against British trading and commercial interests are also of the nature of restrictions imposed on the legislative powers of the Federal Legislature.

These limitations on the legislative competence of the Federal Legislature existed because it was a *subordinate* law making agency to which the British Parliament had given certain definite powers of legislation by the Government of India Act. The British Parliament reserved to itself the right not only to determine the Indian constitution but also to legislate for India.

Provision in case of Failure of Constitutional Machinery.— It now remains to mention another very important power vested in the Governor General by the Act. It relates to the failure of the constitutional machinery set up by the Act. If an cccasion arose (similar to what happened in some of the Provinces in 1939 when the Congress Ministers resigned as the British Government had failed to state their war aims in a way satisfactory to Indian public opinion and an alternative government could not be formed) when the Governor General was satisfied that the Government of the Federation could not be carried on in accordance with the provisions of the Act, he could issue a Proclamation suspending

the constitution in whole or in part and declaring that his functions to such extent as was specified in the proclamation would be exercised in his discretion, and may assume to himself all or any of the powers vested in or exercisable by any Federal body or authority other than the Federal Court. This proclamation was to be communicated to the Secretary of State, who would place it before Parliament. It could remain in force only for a period of six months unless both the Houses of Parliament approved of its continuation for a further period of twelve months. A Proclamation suspending the constitution could be revoked by a subequent proclamation.

The Government of the Federation by means of such proclamations could not be carried on for more than three years. At the end of three years the government was to be conducted in accordance with such changes and amendments as might have been made by Parliament. In some Provinces, however, government by means of proclamation was carried on for more than the stated period of three years.

The provision for government by Proclamation in the event of a breakdown of constitutional machinery is most undemocratic. Nothing like it exist in the constitutional law and practice of Great Britain or of other democratic states. In the case of a deadlock between the executive and the legislature, the chief of the state dissolves the legislature and issue instructions for holding general elections. The appeal is thus made to the electorate which resolves the deadlock. In India the Governor General, instead of giving the people a chance to approve or condemn the action of the legislature, could suspend the legislature and take into his hands its powers and those of other federal bodies. Government by proclamation is nothing but autocratic and dictatorial rule. The purpose of this provision was to prevent the Legislature from forcing the hands of the Governor General into a line of conduct which he did not think proper. It was not designed to restore harmony between the legislature and the executive by an appeal to the electorate.

The Federal Court

Necessity of a Federal Court.—A federal constitution essentially involves the distribution of governmental functions between the government of the federation and the governments of the federating units. Each has a clearly demarcated sphere of its

own which it cannot transgress. A federal constitution also postulates the supermacy of the written constitution. No party is permitted to violate its provisions. Any executive act or legislative measure of either the federal government or the government of a unit which goes against it, is null and void. A supreme court is needed to interpret the constitution and decide upon the legality or otherwise of the acts and measures of the various governments as well as to decide the disputes about jurisdiction which are likely to arise in a federation. We thus find that there is no federal polity in the world but has its supreme judicial organ. The Government of India Act also provided for the establishment of a Federal Court. Though the Federation was never formed, the Federal Court was brought into existence and began functioning on October 1, 1937.

Its Constitution.—The Federal Court was to consist of a Chief Justice and not more than six other judges. The number of judges could be increased if the Federal Legislature presented an address to His Majesty through the Governor General asking for an increase. At the time of its establishment it consisted of a Chief Justice and two other judges. The judges were appointed by His Majesty and could hold office till they attained to the age of sixty-five. A judge could resign office; he could be removed by the King on ground of misbehaviour or infirmity of mind, if the Privy Council reported to that effect. Temporary vacancies could be filled by the Governor General.

The Federal Legislature and the Government of the Federation were not given any voice or power in the appointment or removal of judges of the Federal Court, ostensibly with a view to keeping them outside the play of party politics and securing their independence and integrity of judgment. Indian opinion was strongly critical of placing the appointment, etc., of judges in the hands of an outside authority, namely, the Secretary of State for India. It was feared that 'so long as the judges owe their allegiance, primarily and obviously, to an outside authority unconsciously biased in favour of the existing order, they cannot but,—quite unconsciously perhaps,—lean in favour of the class or power that gives them their place, and their importance in the scheme of life............Hence the supposed attribute of impartiality induced or encouraged by this method of appointing Judge to the highest tribunal in India would fail to accomplish the object in

view; while there is at least an equal danger of its promoting something quite the reverse.'*

Qualifications of Judges.—In order to be eligible for appointment as a judge of the Federal Court a person must have been for at least five years judge of a High Court in British India or in a Federated State, or a barrister of England or Northern Ireland of at least ten years' standing, or a member of the Faculty of Advocates in Scotland of at least ten years' standing, or a pleader of a High Court in British India or in a Federal State of at least ten years' standing. The Chief Justice must, at the time of his appointment, be a barrister, an advocate or a pleader of at least fifteen years' standing. The effect of this provision was to exclude Civilians from appointment as the Chief Justice. The Governor General could appoint any one of the federal judges to act as the Chief Justice in a temporary vacancy.

The Federal Court was a court of record; *i. e.*, its proceedings and judgments were officially recorded and published and cited as authority before subordinate court. It normally sat at Delhi. The salaries, allowances and pensions of the judges were fixed by the King-in-Council. They were a charge upon the federal revenues.

Jurisdiction of the Court.—The Federal Court had a threefold jurisdiction : original, appellate, and advisory. It had exclusive jurisdiction in the case of disputes about legal rights between the Federation and any of its units. In other words, the parties to the suit must be Governments and not individuals, and the dispute must involve a question of legal right. On its original side the Court could declare what were the rights of the parties to the suit.

On its appellate side it heard appeals from High Court in British India and Federated States, if the latter certified that the case involved a substantial question of law as to interpretation of the Act or an Order-in-Council made under it. The Act did not confer appellate jurisdiction on the Federal Court in Civil and criminal cases. Provision was however made by which the Federal Legislature could pass an Act with the previous sanction of the Governor General enlarging its appellate jurisdiction so as to entertain appeals in civil cases from High Courts, provided the amount involved was not less than Rs. 50,000/-. Direct appeal to the Privy Council would have ceased if effect were given to this provision.

*K. T. Shah, *Federal Structure*, page 389.

If the Governor General desired any information on any point of law that had arisen or was likely to arise, he could in his discretion refer the matter to the Federal Court and request it to give its opinion. The Court was to sit as an open court in considering the matter and give its opinion. This was the advisory or consultative jurisdiction of the Court. It is not certain whether this opinion was binding upon the Governor General.

It may be added that the Federal Court always sat as a bench and delivered its judgments as an open court with the concurrence of a majority of judges in case of difference of opinion among them. A dissenting judge was entitled to give his dissenting judgment. All proceedings in the Court were to be in English.

The Federal Court was not the supreme court. Appeals from its judgments could lie to the Judicial Committee of the Privy Council without leave from it in cases which (*i*) involved an interpretation of the Act or an order-in-Council and the judgment was given in the exercise of its original jurisdiction, (*ii*) concerned the extent of the legislative or executive authority vested in the Federation by virtue of the Instrument of Accession of a State, or (*iii*) arose from agreement made between the Federation and any Federating State in relation to the administration in that State of a law made by the Federal Legislature. In other cases appeals lay by leave of the Federal court.

The Federal Court made its own rules of procedure. The law declared by it was binding on, and was to be followed by, all courts in British India. All authorities, civil and judicial, throughout the Federation were to act in aid of the Federal Court.

The Federal Railway Authority

Introductory.—Railways in India constituted a federal subject and were not included in the list of the reserved subjects which were to be administered by the Governor General in his discretion. But neither did they come under the control of a popular minister. Whereas under the Act of 1919 Railways were managed by a Railway Board which was under the control of the Member of the Viceroy's Executive Council in-charge of Communications, and the Railway budget was presented separately by the Communication Member to the Central Legislature which could discuss it and vote a part of its grants, the Act of 1935 vested their control and management in a new authority created by it. It was to be free from control by the

Council of Ministers and the Federal Legislature except as regards general policy to some extent and the safety of passengers. This authority was to be known as the Federal Railway Authority. Provision for its establishment was included in the Act presumably to satisfy the foreign bond-holders of Indian Railways that their investments would be secure against interference by Indian politicians and the possibility of uneconomical and wasteful management. Distrust of Indians is thus writ large on the creation of the Railway Authority. Its composition, powers and functions were defined in the Act, and the Federal Legislature was debarred from changing them in any manner. Even for other matters the previous sanction of the Governor General was necessary. Since it never came into existence and nothing like it exists in our present constitution, nothing need be added about its composition, powers, etc.

Federal Finance

A federal polity requires not only the distribution of powers between the government of the Federation and the governments of the federating units, it also equally demands a statutory division of the sources of income between the two. The heads of revenue allocated by the Act of 1935 to the Federal Government are enumerated in the Federal Legislative List. The following were the more important of them : Customs duties ; excise duties on goods, and produced in the country except liquors, opium, narcotic drugs, medicinal toilet preparations containing alcohol ; corporation tax ; tax on salt ; taxes on income other than agricultural income ; taxes on capital ; duties in respect of succession to property other than agricultural land ; stamp duty in respect of bills of exchange, cheques, promissory notes, insurance policies, etc. ; terminal taxes on goods or passengers carried by railway or air ; and taxes on railway freights and fares. The proceeds of duties in respect of succession to property other than agricultural land, stamp duties on bills of exchange, etc., terminal taxes on goods or passengers carried by rail or air, and taxes on railway freights and fares in any financial year, though levied and collected by the Federal Government, were assigned to the Provinces and States and distributed among them in accordance with an Act of the Legislature. They did not form part of federal revenues. A certain percentage of revenue from income-tax was also assigned to the Provinces Duties on salt, federal excise duties and export duties were levied and collected by the Federal

Government ; but if an Act of the Federal Legislature so desired, a part or whole of their proceeds could be paid to the provinces and federated States from where they were collected. Surcharge on all duties levied by the Federal Government was to be credited to it.

Reserve Bank of India.—Finance was a transferred subject to be controlled by a popular minister, but the preservation of the financial stability and credit of the Federal Government was one of the special responsibilities of the Governor General. The financial system of a country is closely linked up with its currency and exchange, and with a view to safeguarding its security it was necessary to ensure control over the latter. Hence the White Paper recommended that as a condition precedent to the inauguration of the Federation a Reserve Bank be established which must be entrusted with the task of controlling currency and credit, issuing banknotes and maintaining reserves. The Reserve Bank of India Act was passed by the Indian Legislature in 1934 and the Bank started functioning in 1935.

Its affairs were managed and controlled by a Central Board of Directors composed of a Governor and two deputy Governors appointed by the Governor General-in-Council, four directors nominated by the same authority, eight directors elected by the shareholders, and a Govornment official nominated by the Government of India. No bill affecting the constitution and functions of the Reserve Bank or the coinage and currency of the country could be introduced in the legislature without the previous consent of the Governor General given in his discretion.

In the appointment and removal of the Governor and Deputy Governors of the Reserve Bank and in determining their terms of office and remuneration, in superseding the Board of Directors, and in the matter of the liquidation of the Bank, nominatinn and removal of the directors, the Governor Generol was to act in his discretion. The Reserve Bank has now been nationalised.

Borrowing etc:—The act also made detailed provisions with regard to borrowing into which it is not necessory to enter. It also provided for the appointment of an uditor General who was to perform such duties and exercise such powers in relation to the accounts of the Federation and the Provinces as might have been prescribed by an Order of his Majesty-in-Council or by an Act of the Federal Legislature.. He was to be appointed by the King and

was removable by him. His salary, allowances, and pension and those of his staff were a charge on the Federal revenues.

CHAPTER VIII

The Government of India Act of 1935 : Provincial Autonomy and Home Government

Introductory. — It has been pointed out in the preceding chapter that the eleven Governor's Provinces, six Chief Commissioner's Provinces, and such Indian States as would have executed the Instrument of Accession were to be the units of the proposed Indian Federation. Of the units the Indian States were to retain the form of government which prevailed in them ; the Act of 1935 could not legislate for them, and it did not demand that they should democratise their administration. It proposed no change in the government of the Chief Commissioners' Provinces also ; they were to be administered by the Governor General through his agents, the Chief Commissioners, who were to be appointed by him in his discretion. They were not to be given the privileges of self-government. It is only in the Governors' Provinces that full responsible government—limited, of course, by the discretionary power and special responsibilities of the Governor— was to be introduced. In this chapter we shall describe the provisions of the Act so for as they related to the Governors' Provinces.

Provincial Autonomy.—Perhaps the greatest and most fundamental of the changes introduced by the Act of 1935 was the new status assigned to the Governors' Provinces. Though each of them had an executive and a legislature of its own under the Act of 1919, they were mere territorial divisions exercising merely delegated authority. They had no independent status and existence of their own ; the executive in each one of them was the agent of the Governor General-in-Council, responsible to him and bound to carry out all orders and instructions which might be issued by him. This was the natural consequence of the unitary system of government then prevalent in the country.

The Act of 1935 changed all this. It made the provinces

autonomous political units. They ceased to be mere territorial divisions enjoying whatever authority was delegated to them by the Government of India; they now derived their power and authority direct from the Crown. This was a fundamental departure from the principle and practice of the Act of 1919. By describing them as *autonomous* units it is meant that each of them was to have 'an Executive and a Legislature having exclusive authority within the Province in a precisely defined sphere, and in that exclusively provincial sphere, broadly free from control by the Central Government and the Legislature.' Provincial autonomy thus signified that the provincial executive and legislature were freed from the control of and dependence on the Government of India in the administration of matters enumerated in the Provincial Legislative List. Such freedom could not be absolute; in no federation it is absolute, everywhere the Federal Government has some control over the governments of the units. Under the Act of 1935 the degree of control exercised by the Governor General over the provincial governments was much larger than anywhere else in the world. This is the reason why in the above-quoted definition of *autonomy* given by the Joint Parliamentary Committee the phrase 'broadly free' occurs. In this definition there is no reference whatsoever to the responsibility of the provincial executive to the legislature. It laid stress only on one element in the meaning of provincial autonomy; namely, freedom from the control and interference of the Government of India. In this sense the Indian States were autonomous units; and so were the provinces during the Governor's regime under Section 93 of the Act. Neither in the States nor in the Provinces so long as they were governed under Section 93, was there any iota of responsible government. This means that autonomy can exist without responsible government; though the latter cannot exist without the former. It is not 'provincial autonomy' in this narrower meaning which was established by the Act of 1935, but in the wider meaning which includes responsible government. The Act not only gave to each Province a sphere of its own, this had been done to a large extent by the Act of 1919— it not only freed the provincial government from the control of the Centre to a very large extent, but also made the provincial executive responsible to the provincial legislature in the whole sphere of provincial administration. Dyarchy was abolished; the old distinction between reserved and transferred

subjects was done away with, and all the provincial subjects were placed under the control of the popular ministers. In popular mind the idea of provincial autonomy is indissolubly associated with the establishment of responsible government in the whole sphere of provincial administration. In short, the provinces became *responsibly governed autonomous political units.*

It should however be remembered that provincial autonomy established by the Act was not an unqualified one. It was limited both externally and internally. As has been explained above, the provinces were only *broadly* freed from the control of the Central Government. The power vested in the Governor General to issue orders to the Governor of a provinc eas to the manner in which the latter was to exercise, the authority vested in him for preventing a grave menace to the peace and tranquillity of India or any part thereof and other special responsibilities, etc., costituted a great derogation from the autonomy of the province. Internally, the discretionary authority and the special responsibilities of the Governor placed severe restrictions upon the power of the ministers to put into practice their policies and programme. The 'safeguards' made great inroads into the sphere of responsible government. This point will be elaborated in the next section.

We shall deal with provincial executive, legislative and judicial organs as constituted under the Act in the following sections.

The Provincial Executive

Its Form and Extent.—In form the provincial executive was broadly similar to the Federal. The executive authority of the province was vested in its Governor as the representative of the Crown. He derived his power and authority direct from the crown and not from the Governor General as was the case under and before the Act of 1919. As has been stated earlier, this constituted a fundamental departure from the earlier practice. This was a necessary consequence of the decisionto make India a federation.

The executive authority of the Province extended to all matters enumerated in the Provincial Legislative List and the Concurrent List. It did not extend to subjects mentioned in the Federal List. It was exclusive as regards items included in the Provincial list ; the Central Government had no right to legislate upon them except in an emergency or with the consent of the provinces concerned. Both

the provincial and central legislatures had the right to legislate upon subjects mentioned in the Concurrent List. The executive authority was exercised by the Governor either directly or through officers subordinate to him.

The Governor.—The Governor was appointed by the King on the advice of the Secretary of State for India. The Governors of the three Presidencies were appointed from among men in the public life of Great Britain and usually belonged to aristocratic families, while those of the remaining provinces were appointed from among the ranks of the senior I. C. S. officials on the recommendation of the Governor General. Their salaries and allowances were fixed and could not be altered by the legislature. Throughout the British period only one or two Indians were appointed to this high post in a permanent vacancy and not more than four had officiating chances.

The Governor was appointed usually for a five-year period. At the time of his appointment he was given an Intrument of Instructions which contained directions as to the way in which he was to use his discretion and exercise his individual judgment in the discharge of his special responsibilities. It embodied the conventions or understandings of responsible government as regards his relation to his Ministers. Like the Governor General, a provincial Governor could exercise the executive authority vested in him in three different ways. He could use his discretion, exercise his individual judgment, or act on the advice of his Council of Ministers. The difference between acting in discretion and exercising individual judgment has been explained already* : it need not be repeated here. We shall enumerate his discretionary powers and special responsibilities.

Discretionary Powers of the Governor.— Although there were no reserved departments in the sphere of provincial administration to be administered by the Governor in his discretion, the scope of his discretionary powers was vast enough to make him the controlling and dominating head of the provincial government. Their cumulative effect was to remove the most important part of the executive work from the sphere of his Council of Ministers and to enable him to dominate even the legislature with his porwers of initiative and control. Prof. K. T. Shah has enumerated as many as 32 different occasions on which he was authorised to act in his discretion. The

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* See above, page 265 ff.

more important of them are the following : (*i*) deciding whether any matter is or is not one in which he is required to use his discretion or act in his individual judgment ; (*ii*) presiding over the meetings of the Council of Ministers ; (*iii*) to take steps to combat crimes of violence committed to overthrow the government ; (*iv*) to make rules for securing that no member of any police force might divulge to persons (other than those authorised in this behalf) the sources from which information had been received regarding the criminal intentions of terrorists, etc. ; (*v*) to make rules for the more convenient transaction of the business of the Government ; (*vi*) to make rules requiring Ministers and Secretaries to the Government to transmit to him all such information with respect to the business of the Provincial Government as is specified in the rules, and particularly those matters which involve any of his special responsibilities ; (*vii*) removing certain disqualifications of a person enabling him to stand for the legislature; (*viii*) to summon or prorogue the Legislature and dissolve the Assembly ; (*ix*) to summon the two Houses where there was bicameral legislature to a joint sitting ; (*x*) to decide whether any item of expenditure was votable or non-votable ; (*xi*) to make rules for the timely completion of financial business of the Legislature ; to prohibit the discussion or the asking of questions on certain subjects ; (*xii*) to stop discussion or further discussion on a Bill or a clause of a Bill in certain cases ; (*xiii*) to enact Governor's Acts ; to promulgate Ordinances ; to make regulations for the peace and good government of excluded or partially excluded areas ; to give sanction for the introduction of Bills of certain character in the Legislature ; to give assent to or withhold assent from or reserve Bills for His Majesty's pleasure ; to appoint the chairman and members of the Provincial Public Service Commission ; and the appointment of his secretarial staff and the determination of their salaries, allowances, etc.

Special Responsibilities of the Governor.— It was in the discharge of his special responsibilities that the Governor was required to exercise his individual judgment ; *i. e.*, he had to consult his ministers but was not bound to accept their advice. They are as under :—

1. The prevention of any grave menace to the peace or tranquility of the Province or any part thereof.
2. The safeguarding of the legitimate interests of minorities.

3. The securing to persons who are or have been members of the public services and to their dependents, of any rights provided or preserved for them under this Act, and the safeguarding of their legitimate interests.

4. The securing, in the executive sphere, of protection against discrimination.

5. The securing of the peace and good government of partially excluded areas.

6. The protection of the rights of any Indian State and the rights and dignity of the Reler thereof.

7. The securing of the execution of the orders or directions lawfully issued to him under part VI of the Act which deals with administrative relations, by the Governor General in his discretion.

The Governor of Sind had an additional special responsibility of securing the proper administration of the Llyod Barrage and Canals Scheme. The Governor of the Central Provinces and Berar was charged with the responsibility of seeing that a reasonable share of the revenues of the province was spent for the benefit of the residents of Berar. It should be observed that the Governor had no special responsibility for safeguarding the financial stability and credit of the Province, and the prevention of any act which would subject goods of the United Kingdom or of Burmese origin imported into India to discriminatory treatment. Coinage, currency and exchange, and the imposition of custom duties being the concern of the Federal Government, there was no occasion for the inclusion of them in the special responsibilities of the Provincial Governors.

Besides these sepcial responsibilities there were a few other matters also where the Governor was authorised to act in his individual judgement. The more important of them were the following : the appointment and dismissal of the Advocate General of the Province and the determination of his salary; promulgation of Ordinances during the recess of the Legislature, amendment of police rules, certain matters connected with the Services, declaration that the Ruler or any subject of a specified Indian Ssate or any native of a specified tribal area or territory adjacent to India was eligible to hold civil office in the provincial administration.

In the discharge of his special responsibilities and the use of discretionary powers the Governor was responsible to and under the control of the Governor General. He was required to comply

with all the directions the latter might issue in his discretion. This provision stood in the way of progressive and liberal-minded Governor voluntarily consulting ministers and abiding by their advice in matters lying within the scope of his discretionary powers and individual judgment.

These special powers and responsibilities covered the entire field of administration and ate into the very vitals of government. They constituted a serious infringement upon responsible government in the province and gave the Governor a pivotal position in its administration. He was thus not a constitutional head but possessed great and real powers. He actually governed. The successful working of the Act of 1935 depended greatly on his tact, ability and experience.

The Act vested in the Governor large powers in the financial and legislative spheres which will be described in the next section. We may conclude this account of his powers with a reference to his power to suspend, in whole or in part, the operation of the Act at any time when he feltsatisfied that the government of the province could not be carried on in accordance with the provisions of the Act Under section 93 he could issue a Proclamation declaring that, to the extent specified in it, all his powers were to be exercised by him in his discretion and that he assumed all or any of the powers vested in and exercisable by any provincial body except the High Court. He could dissolve the legislature and abolish the Council of Ministers, and carry on the administration with the help of Advisers. In several provinces the Governors made use of this provision and suspended the working of responsible government when the Congress ministries resigned in 1939. This power was similar to that of the Governor General in the Federal sphere and was subject to similar conditions. It is not necessary to repeat here what was said in that connection.

It will be obvious that 'the Governor's powers are the same for the province as the Governor General enjoys fort he whole country, with the distinction that, while he has no Reserved Departments under his personal control and no special responsibility forfinance, he has the Excluded Areas to administer in his discretion and the Partially Excluded Areas according to his individual judgment and the extra obligation to execute the Governor General's orders.'*

*Masani and Chintaman, *India's Constitution at Work*, page 89.

The Council of Ministers.—Although the executive authority of the Province was vested in the Governor and was to be exercised in his name, the Act provided for a Council of Ministers to aid and advise him in the exercise of his functions except in so far as he was required by the Act to exercise them in his discretion. The Act did not say anything about the way in which the Governor was to appoint his Council of Ministers or about their relation to the Legislature except that they were to be summoned and chosen by him in his discretion and were to hold office during his pleasure. A Minister ceased to hold office if he was not a member of the Provincial Legislature for a period of six consecutive months Correctly to understand the position of the Ministers in relation to the Governor and the Legislature, the Act must be read along with the Instrument of Instructions. It was laid down in the latter that the Governor should appoint his ministers in consultation with the person who in his judgment was likely to command a stable majority in the Legislature, and that they should collectively command the confidence of the Legislature. In other words, the Governor was asked to invite the leader of the majority party in the Legislature to form the ministry and to appoint those persons whom he recommended as his Ministers. It was only thus that the spirit of collective responsibility could be fostered and encouraged. Though according to the Act the Ministers were to hold office during the pleasure of the Governor, what was contained in the Instrument of Instructions signified that they were to resign office if the Legislature showed want of confidence in them. The observance of the principle of responsible government was sought to be secured in this manner. The Instrument of Instructions was made the vehicle of introduction and development.

There was one difficulty in the way of the working of the Cabinet type of government in the provinces. The Instrument of Instructions enjoined upon the Governor to see that so far as practicable important minority communities were represented in the ministry. Under the system of separate communal repersentation, then in vogue in our country, it might not always be possible for a majority party to contain representatives of important minorities. In the rare cases when the majority party had no member belonging to the minority community the Governor took cover under the saving clause 'so far as practicable,' and did not insist on compliance with

this provision. The fact that the salaries of the ministers, after they were once determined by an Act oft he Legislature, were not subject to its vote at the time the Budget was considered by the Legislature as also inconsistent with the spirit of responsible government. An important means of enforcing responsibility was thus taken away from the Legislature. The provision that the Governor might in his discretion preside over the meetings of his Council of Ministers was another departure from the practice associated with the working of the cabinet type of Government in Great Britain.

Since the Ministers were to be practcially selected by the Premier, no qualifications could be laid down for them except that they mnst be members of the Legislature. And since for continuing in office they depended upon the support of the Legislatuae, they could have no fixed tenure of office. The ministry could remain in office so long as it retained a majority in the Provincial Assembly. The Act did not say anything about the number of ministers a province might have. Their number varied from province to province, apparently without regard to its size and population. Assam had eight ministers while the United Provinces had six, and the Central Provinces only five. At one time Bengal had as many as eleven ministers.

The Provincial Cabinets worked on the portfolio system. Each minister was put incharge of one or more departments for whose administration he was held responsible. Ordinary and routine matters were disposed of by the minister in charge of the department himself ; important questions of principle and policy were discussed and decided by the Cabinet as a whole To assist him in administering the department or departments under his charge, a minister was given one or more parliamentary secretaries. These officials are generally found in countries having the parliamentary form of government.

The Provincial Executive was thus of the cabinet or parliamentary type. It consisted of the Governor who represented the Crown as the supreme head of the Province, and a Council of Ministers responsible to the legislature. The Provinces thus enjoyed responsible government. The discretionary powers and special responsibilities of the Governor restricted the scope of responsible government. Communal electorates and communal parties, the scheme of representation in the Provincial Legislature, and the power

of the Governor to suspend the Constitution were inconsistent with the principles of responsible government and retarded its development. Full and genuine responsible government cannot thus be said to have been conceded by the Act even in the provincial sphere. Nevertheless, the Act of 1935 was a great advance on the Act of 1919.

Provincial Legislature

Its Constitution.— While all the Governor's Provinces had essentially the same type of executive, in the constitution of their legislatures they showed difference in one fundamental respect. Six of them— namely, Assam, Madras, Bengal, Bombay, Bihar, and the United Provinces (the student can easily remember their names with the help of the memonic word *ambu*)— were given a bicameral legislature. The lower and more democratic chamber was called the Legislative Assembly, and the oligarchic upper camber was known as the Legislative Council. The remaining Provinces— namely, the Punjab, the Central Provinces and Berar, the North-Western Frontier Province, Orissa, and Sind— had each a single chamber called the Legislative Assembly. In every province the Governor as the representative of the King Emperor was an integral part of the Legislature.

The Act of 1935 introduced the bicameral system of legislature in some of the provinces for the first time. The question of introducing it in the provinces was considered and rejected by Mr. Montague and Lord Chelmsford on the ground that it was unnecessary and inexpedient. The J. P. C. came to a different conclusion and accepting the proposal of the White Paper recommended the establishment of second chambers in five provinces. The British Parliament added Assam to the list. If the arguments for and against its introduction are carefully considered and weighed, it will be found that the case rests on very weak foundations. Indian opinion regarded it as a retrograde step and as an unwanted and unwarranted brake upon progressive legislation on matters social, economic and political. It was a concession to vested interests which were afraid lest the introduction of democracy should adversely affect them. But strange as it may seem, our new constitution provides for bicameralism in some provinces as an experimental measure.

The introduction of second chambers was sought to be defended on the following grounds : (*i*) In view of the enlarged powers of the provincial legislatures it was necessary to create second chambers in some provinces to give representation to vested interests. On examination it would be found that vested interests were strong in all the six provinces where the system was introduced. In the U. P., and Bengal and Bihar there were big landlords ; their zamindari interests had to be safeguarded ; in Madrasand Bombay there wera strong capitalist interests as much deserving of protection as the zamindari interests in the first named three provinces. In Assam there were the powerful tea planters. (*ii*) The second chamber was deemed to be necessary as providing a safeguard against hasty, rash, and illconsidered legislation which the lower chamber was calculated to pass because of the strong popular element it was expected to have. This point is well put by Lord Halifax in the following words : 'In India, embarking upon a new career of responsible legislative powers, there is everything to be said, where material for such Chambers exists, for establishing such Chambers for the purpose of revision and the encouragement of prudent legislation and to resist imprudent legislation at all events, giving the other Chamber the opportunity of second thought. It is not to entrench privilege or afford merely one more tiresome check upon the opportunities in India to adopt a progressive policy.'*

Progressive Indian opinion was opposed to the system on the ground that the second chambers, dominated as they would be by vested interests, would be highly conservative and reactionary in outlook, and would therefore impede progressive social and economic legislation. It was also contended that it would be difficult to find suitable personnel to man the second chambers in the provinces. Persons of requisite qualifications to act as elder statesmen were not available in sufficient number. In the third place, it was argued that in view of the ample safeguards provided in the shape of the special powers and responsibilities of the Governor, any further check upon hasty and imprudent legislation by the provincial assemblies was uncalled for.. The fear that the second chambers would act as citadels of reactionary politics and add much to the cost of administration was borne out by the experience of their working.

Composition of the Legislative Councils.— The composition of

* Quoted by Joshi, *The New Constitution of India*, page 213.

the Legislative Councils in the six provinces named above where the bicameral system was introduced is set forth in the table given below :

Province.	Total of Seats.	General Seats	Moham. Seats.	European Seats.	Ind. Chris. Seats.	Seats to be filled by Leg. Ass.	Seats to be filled by Governor.
Madras.	Not less than 54 not more than 56	35	7	1	3		Not less than 8 not more than 10
Bombay.	Not less than 29 not more than 30	20	5	1	—		Not less than 3 not more than 4
Bengal.	Not less than 63 not more than 65	10	17	3	—	27	Not less han 6 not mare than 8
U. P.	Not less than 58 not more than 60	34	17	1	—		Not less than 6 not more than 8
Bihar.	Not less than 29 not more than 30	9	4	2	—	11	Not less than 3 not more than 4
Assam.	Not less than 21 not more than 22	10	6	2	—		Not less than 3 not more than 4

The seats to be filled by the Assembly in Bengal and Bihar were to be filled in accordance with the system of Proportional Representation by means of single transferable vote. In each case the Governor was given the power to nominate a limited number of persons to the Council in order to provide representation for special interests, particularly for women, and also to redress any possible inequality.

Like the Federal Council of State, the Provincial Legislative Councils were to be permanent bodies not subject to dissolution. Nearly one-third of the members were to retire every three years. Members were elected for a term of nine years. When the Councils were first constituted in 1937, the Governor of each province, acting in his discretion, curtailed the tenure of one-third of the members to three years, and of the other one-third to six years to provide for the election of nearly one-third of the members at the end of every three years. A member chosen to fill a casual vacancy was to be chosen for the remainder of his predecessor's term of office.

Composition of the Legislative Assemblies.— The table on the next page sets forth the scheme of composition of the Legislative Assemblies in the various provinces. It will be observed that each Assembly consisted of elected members only ; the nominated bloc

whose presence formed such an important feature of the provincial legislatures under the Act of 1919 was done away with altogether. The total of seats was, in each case, divided among the communities and interests according to the scheme embodied in the notorious Communal Award given by Mr. Ramsay Macdonald in 1932, as modified by the Poona Pact. The Award created as many as 17 different electorates. They are as follows : 1. General electorates consisting of the Hindus and such communities as have not sought and obtained separate communal representation, *e. g.*, the Parsis. 2. Seats were reserved for the Scheduled Classes in accordance with the Poona Pact, but they were out of general seats. 3. Electorates for Mohammedans. 4. Electorates for Europeans. 5. Electorates for Anglo-Indians. 6. Electorates for Indian Christians. 7. Electorates for Sikhs in the Punjab and the North West Frontier Province. 8. Electorates for Commerce and Industry including mining and planting interests. 9. Electorates for Landlords. 10. Electorates for Labour. 11. University Electorates. 12. Electorates for backward areas and tribes 13. Electorates for women, General. 14. Electorate for Sikh women in the Punjab. 15. Electorates for Muhammadan women. 16. Electorate for India Christian women in Madras. 17. Electorate for Anglo-Indian women in Bengal. The seats assigned to each of them were fixed by the Award for each province. The essence of the scheme was that the Muslims could vote for the Muslims only, the Sikhs for the Sikhs, the Europeans, for the Europeans the Anglo-Indians for the Anglo-Indians, and the Indian Christians for the India Christians only. No Muslim, Sikh, European, Indian Christian and Anglo-Indian could stand from a general constituency or be a voter in it. The result of this system of communal representation through separate electorates was to divide the nation into water-tight compartments, destroy national unity, and foster and encourage selfish and separatist tendecies.

The Award gave special representation through separate electorates to the Seheduled Classes also, inspite of the warning given to the British Government by Mahatma Gandhi that he would resist with his life any scheme to disintegrate the Hindu community. When the Award was published, Mahatmaji gave notice to the British Government that he would fast unto death unless separate electorates for the Depressed Classes were given up. There was a great stir in the country when Mahatmaji entered upon his historic fast in the

Yervada Jail. The representatives of the Caste Hindus and the Scheduled Classes met together and arrived at a mutually agreed scheme which gave the Depressed Classes almost double the number of seats allotted by the Award but retained common electorates with the Hindus. According to the Poona Pact the seats reserved for the Depressed Classes were to be filled by an unusual form of double election. All members of the Depressed Classes whose names were entered in the electoral roll of a general constituency which was to return one Scheduled Class representative were to elect a panel of four men from amongst themselves. The four candidates who received the highest number of votes in this primary election were to be the only candidates eligible to stand for election from the constituency at the time of general election when the whole body of electors, case Hindus and members of the Depresed Classes, were to vote together, and the candidate receiving the highest number of votes was to be returned as the representative of the Depressed Classes.

The legislative Assemblies, unless sooner dissolved by the Governors in their discretion, were to continue for a period of five years from the day of their first meeting. Their term could not be extended by the Governor. A person could not be a member of both Chambers of the provincial legislature. He could not also be a member of both the Federal Legislature and a Provincial Legislature. If he was elected to both, he had to resign his seat in one of them. If he failed to do so within a period specified by the Governor, his seat in the Provincial Legislature was to be declared vacant.

Composition of U. P. Lagislature.—It was composed of the Governor as the representative of the King-Emperor, and two Chambers respectively called the Legislative Council and the Legislative Assembly. The Legislative Council was to consist of not less than 58 and not more than 60 members of whom not less than 6 and not more than 8 were to be nominated by the Governor. Of the remaining 52 elected seats, 34 were General, 17 Muslim, and 1 was the European seat. The Legislative Assembly contained 228 members. Out of them, 140 represented the General Constituencies, 20 represented the Scheduled Classes, and 64 were Muslims. Europeans and Indian Christians had two representatives each, and Anglo-Indians one. There were three representatives of Commerce and Industry, three of labour, and six of landlords. The three provincial

Provincial Legislative Assemblies

TABLE OF SEATS

Province	Total Seats	General Seats: Total of General Seats	General Seats: General seats reserved for Scheduled Classes	Seats reserved for Backward areas and tribes	Sikh Seats	Muhammadan Seats	Anglo-Indian Seats	European Seats	Indian Christian Seats	Seats reserved for Commerce and Industry	Landlords' Seats	University Seats	Labour Seats	Seats for Women: General	Seats for Women: Sikh	Seats for Women: Muhammadan	Seats for Women: Anglo-Indian	Seats for Women: Indian Christian
Madras ...	215	146	30	1	—	28	2	3	8	6	6	1	6	6	—	1	—	1
Bombay ...	175	114	15	1	—	29	2	3	3	7	2	1	7	5	—	1	—	—
Bengal ...	250	78	30	—	—	117	3	11	2	19	5	2	8	2	—	2	1	—
United Provinces ...	228	140	20	—	—	64	1	2	2	3	6	1	3	4	—	2	—	—
Punjab ...	175	42	8	—	31	84	1	1	2	1	5	1	3	1	1	2	—	—
Bihar ...	152	86	15	7	—	39	1	2	1	4	4	1	3	3	—	1	—	—
Central Provinces & Berar	112	84	20	1	—	14	1	1	—	2	3	1	2	3	—	—	—	—
Assam ...	108	4	7	9	—	34	—	1	1	11	—	—	4	1	—	—	—	—
N. W. F. Province ...	50	9	—	—	3	36	—	—	—	—	2	—	—	—	—	—	—	—
Orissa ...	60	44	6	5	—	4	—	—	1	1	2	—	1	2	—	—	—	—
Sind ...	60	18	—	—	—	33	—	2	—	2	2	—	1	1	—	1	—	—
Total ...	1585	808	151	24	34	482	11	26	20	56	37	8	38	28	1	10	1	1

universities had one representative. There were 6 women's seats in all, 4 General and 2 Muslim.

Franchise for the Assembly.—The Act did not lay down franchise qualifications. They were determined by an Order-in- Council which generally followed the findings of the Franchise Committee presided over by Lord Lothan. Under the Act of 1919 the right to vote was extended to about 3% of the total population. The Simon Commission recommended the enfranchisement of not less then 10% of the population The First Round Table Conference wanted the right to be extended to about a quarter of the total population. Progressive Indian opinion had for long demanded the introduction of universal adult franchise. The Franchise Committee appointed by the Second R. T. C. enfranchised about 14% of the total population of British India. The electorate for elections under the Act of 1935 consisted of some 35 million voters of whom between 28 and 29 million were males and over 6 millon famales, as compared with 7 millon males and three hundred and fifteen thousand females under the old franchise. About 10% of the Scheduled Classes were enfranchised.

In order to be entitled to get his or her name registered in the electoral roll of a constituency, a person had to satisfy several types of qualifications. He must have been a British subjects, or the Ruler or a subject of a State which had acceded to the Federation, or a subject of any prescribed Indian State, and must have been 21 years of age at least. If the constituency was a Muslim, Sikh, Indian Christian, Anglo-Indian or European constituency, he must have been a Muslim, a Sikh, an Indian Christian, an Anglo-Indian, or a European respectively. No one who was entitled to be a voter in any one of these constituencies could be a voter in a General constituency. This did not apply to general seats reserved for women in Assam and Orrissa. In every case, the person must have resided in the constituency for a period which varied in different provinces, being 120 days in Madras and 180 in Bombay. In addition, he must have satisfied atleast one of the following qualifications : payment of income-tax, land revenue or rent in respect of agricultural land, house-rent in cities or municipal tax above a certain minimum. Possession of certain educational qualifications, *e. g.*, having passed the matriculation examination, or being a discharged, pensioned or retired officer or soldier in the army also entitled a person to become

a voter. Special qualifications were laid down for women and members of the Scheduled Classes to secure their adequate representation.

Electoral qualifications varied according to the circumstances prevailing in different provinces. Their general effect was however to enfranchise nearly the same classes and categories of population in all the provinces. In view of the establishment of universal adult franchise under the New Constitution it is not necessary to describe the qualifications of voters for the Assembly and the Council in the U. P. Only this much may be pointed out that the property and tax paying qualifications were higher for the Council than for the Assembly.

Officers, Sessions, etc., of the Legislature.—In each province the Assembly was authorised to elect one of its members as its Speaker and another as its Deputy Speaker for its duration. These two officers could resign earlier, and could also be removed from office by a vote of the members. The Council, where it existed, too, had the right to elect its presiding officer, who was known as President, and a Deputy-President. The sessions of the two chambers were called by the Governor subject to the provision that more than six months could not elapse between the end of one session and the beginning of another. Every minister had the right to address either house, but could vote only in the house of which he was a member. The Advocate General also had the right to participate in the proceedings of either chamber but without the right to vote. Members enjoyed the right of freedom of speech and such other privileges as are extended to members of legislatures all the world over. They received such salaries and allowances as were determined by the legislature.

Powers and Functions.—The powers and functions of a Povincial Legislature are greatly similar to those of the Federal Legislature. They may be described under four different heads: legislative, financial, administrative, and deliberative.

(*i*) *Legislative Powers.*—The Provincial Legislature was the sole law-making agency in the Province. It had the exclusive power to make laws for the whole or any part of the province on matters enumerated in the Provincial Legislative List. Except under an emergency or with the consent of two or more Provinces, the Federal legislature had no power to legislate upon them. (The Provincial

Legislature had concurrent powers with the Federal Legislature to make laws on matters enumerated in the Concurrent Legislative List. It had no power to legislate on matters included in the Federal legislative List which were exclusively within the jurisdiction of the Federal Legislature.

Like the Federal Legislature, the Provincial Legislatures were non-sovereign legislative bodies. Their legislative competence was restricted in several ways. In view of what has been said about the Federal Legislature on this topic*, it is not necessary to enter into details here. It is sufficient to point out that there were certain matters on which the Provincial Legislatures could not legislate at all, and other matters legislation concerning which could not be undertaken without the previous sanction given by the Governor in his discretion. The Governor possessed a real veto over the legislature. The Governor of a Province could reserve a Bill for the consideration of the Governor General who could either assent to it on behalf of the King-Emperor, or return it to the Provincial Legislature for reconsideration or reserve it for His Majesty's consideration. Above all there was the power vested in the King to disallow a Bill to which the Governor or the Governor General had given assent. Provisions with regard to discrimination were also in the nature of restrictions on its authority. It is hardly necessary to remind the reader that the Provincial Legislatures had no constituent powers.

(*iii*) *Financial Powers*·—The financial powers of a Provincial Legislature were broadly similar to those of the Federal Legislature. Except in one important respect the financial procedure was identical in the two spheres, the difference being that whereas in the Federal Legislature the Council of State was given the power to vote supplies along with the House of Assembly, in the provincial sphere, even where bicameralism was introduced, the power to vote supplies was the exclusive concern of the Legislative Assembly; the Legislative Council had nothing to do with voting on demands for grants.

Like the Federal Legislature, a Provincial Legislature had no initiative in financial matters. All proposals for imposing or increasing taxation, borrowing money, and for charging expenditure on provincial revenues could come only with the previous rcommendation of the Governor. The initiative thus lay with him. He

*See *supra* page 294.

caused the Annual Financial Statement to be laid before the Chamber or Chambers before the commencement of the financial year. The Statement showed separately (*i*) sums required to meet expenditure charged on the provincial revenues and thus not requiring the vote of the Assembly, and (*ii*) sums required to meet other expenditure not so charged and therefore standing in need of the Assembly's vote. If there were any sums *included solely* because the Governor had directed their inclusion as being necessary for the proper discharge of any of his special responsibilities, they had to be shown separately. Any question whether any proposed expenditure was a charge on provincial revenues or not was to be decided by the Governor in his discretion The following were the items of expenditure charged on provincial revenues :

(*a*) Salaries and allowances of the Governor and other expenditure relating to his office for which provision is made by an Order-in-Council.

(*b*) Debt charges for which the Province was liable, including interest, sinking fund and redemption charges, expenditure incurred in raising loans and the sevice and redemption of debt.

(*c*) Salaries and allowances of the Ministers and the Advocate General. There was neither precedent nor warrant for making the salaries of the Ministers a non-votable subject. This was inconsistent with true parliamentary procedure.

(*d*) Salaries and allowances of the High Court Judges.

(*e*) Expenditure incurred in connection with the administration of Excluded areas.

(*f*) Sums required to satisfy the judgement, award or decree of any court.

(*g*) Any other expenditure charged by the Act.

Though not subject to the vote of the Assembly, all these items except the salary and allowances of the Governor could be discussed by the Legislature. Votable expenditure was to be submitted to the Legislative Assembly in the form of demands for grants. The Assembly could refuse a grant, reduce it, or assent to it. It could not increase or transfer it.

After the voting on the various demands was over, the Governor authenticated by his signature a schedule specifying (*i*) the grants made by the Assembly, (*ii*) the grants reduced or refused by the Assembly but included by him as being necessary for the

proper discharge of any of his special responsibilities, and (*iii*) the sums charged on the revenues of the Province. The authenticated Schedule was to be laid before the Assembly but was not open to discussion or voting. No expenditure from the revenues of the Province was authorised unless it was in accordance with the authenticated Schedule. If in the course of the financial year further expenditure became necessary, a Supplementary Statement had to be placed before the Assembly and the same procedure had to be gone through.

It is thus clear that, as in the Federal Government so in the case of Provincial Governments, a substantial portion of the revenues was spent on purposes over which the Legislature had no control. This portion was much greater in the Federal than in the Provincial sphere because there were no reserved departments in the latter. Over the rest of the budget the control of the Legislature was subject to the power of the Governor to restore a refused or reduced grant, if the refusal or the reduction affected the due discharge of any of his special responsibilities. The financial powers of the Provincial Legislature were thus limited and restricted in various ways.

(*iii*) *Control over Administration.*— A Legislature exercises supervision and control over administration through its power of voting supplies, moving motions of adjounment and resolutions on important questions of policy, and asking questions and supplementary questions. The Provincial Legislatures had all these powers granted to them. We have examined the extent to which they controlled finance. Since the tenure of the Ministers practically depended upon the pleasure and good-will of the Legislative Assembly, the resolutions adopted by the latter had to be given effect to by the administration. The question hour was a very lively and interesting time of which the members made a very good use in exposing the acts of omission and commission of the executive. The Committees set up by the Legislature were also highly useful for this purpose.

It should be remembered that in so far as the Governor administered any affair in his discretion or in the exercise of his individual judgment, the Legislature was precluded from exercising any effective control over it. The fact that the superior Services, though working under the popular Ministers, were not subject to their control (the ministers could not take any disciplinary action against them), also reduced the control of the Legislature over the administration.

(*iv*) *Deliberative Powers.*— Subject to the power of the Governor to prohibit questions and resolutions on certain subjects, the provincial Legislature had full power to move resolutions and discuss important questions of national policy. The power of the legislature to mould and shape the policies of the Provincial Government was more real and less restricted than its financial powers and the power to control administration.

Legislative Procedure.—The legislative procedure adopted by the provincial legislatures was similar to that of the British Parliament. A bill other than a money bill could originate in either house. A money bill could start only in the Legislative Assembly. Every bill had to pass through three readings. After having been passed by one house it went to the other chamber. If it was passed by the other chamber without amendments or with such amendments as were acceptable to the first house, it was presented to the Governor for his assent who could give or withhold it at his discretion. He could return it for reconsideration or reserve for the consideration of the Governor General or the King. Differences between the two houses were removed at their joint sittings, called by the Governr in his discretion.

The Governor and the Legislature.—The Act gave to the Governor several powers in regard to the provincial legislature. Some of them were of a routine nature and resembled the powers exercised by the British King in regard to the British Parliament ; *e. g.*, he summoned the Chamber or the Chambers in session and prorogued them, and could dissolve the Assembly before the expiry of its full term. He had the right to address the chambers separately or jointly, and send messages to them in regard to pending bills. In case of differences between the two chambers he could, in his discretion, summon a joint sitting to settle them. His assent was necessary for bills passed by the legislature. He could withhold his assent and thus prevent a bill passed by the legislature from being placed on the statute book. Although every chamber had the right to make rules for regulating its business and procedure, the Act gave to the Governor the extraordinary power of making rules, after consulting the Speaker and the President as the case may be, for regulating the procedure and conduct of business in matters where he had any special responsibility. He could also make rules for the timely completion of the financial business. This power of making rules

was a serious encroachment on the powers of the legislature. He was also given the extraordinary power of framing rules prohibiting, except with his previous permission, the asking of questions on the discussion of matters pertaining to the relations between the Indian Government and any foreign power or Indian State, or affecting the administration of tribal and excluded areas. If he was satisfied that the discussion of a bill, clause of a bill or amendment to a clause involved great menace to the peace and tranquility of the province or adversely affected the discharge of any of his special responsibilities, he could stop discvssion on the bill and direct that no further proceedings be taken in relation to it. All these extraordinary powers enabled him to exercise great influence on the legislature and detracted from the value of provincial autonomy ; they were most undemocratic.

Legislative powers of the Governor.— The Governor not only enjoyed powers of initiation, regulation, and control in respect of the Provincial Legislature, he was also vested with the power of putting laws on the statute book over its head and even against its will. Like the Governor General he was empowered to enact what were called Governors's Acts, promulgate Ordinances when the Legislature was in recess and also when it was in session. These powers were conferred on him for the first time by the Act of 1935. If the Governor thought that for the proper discharge of his functions where he was required to use his discretion or exercise his individual judgment, legislative provision was necessary he could, with the concurrence of the Governor General, put on the statute book a permanent Act called the Governor's Act withought consulting the Legislature or after considering its views. Every such Act was to be communicated through the Governor General to the Secretary of State, who had to place it before Parliament. A Governor's Act had the same force and validity as an Act passed by the Legislature and assented to by the the Governor. This was of course, an extraordinary provision apparently inconsistent with the principles of responsible government, but necessitated by the special responsibilities of the Governor in the administrative field.

When the Provincial Legislature was not in session and a situation arose requiring immediate action, the Minister concerned could advise the Governor to issue an Ordinance. If the matter was one where the Governor was required to exercise his individual

judgment, or the Ordinance contained provisions which, had they been brought forward in the form of a regular Bill, would have required the previous sanction of the Governor or the Governor General, the Governor was to exercise his individual judgment in promulgating it. In cases where the bill would have required the previous sanction of the Governor General, the Ordinance could not be issued without the concurrence of the Governor General. An Ordinance of this type had the same force and effect as an Act of the Legislature but had to be laid before the Legislature when it met, and ceased to operate after six weeks of its meeting unless disapproved earlier. It could be withdrawn by the Governor any time. Two Ordinances of this type were passed in 1939 on the advice of Congress Ministers, the Madras Temple Entry Indemnity Ordinance, and the Bombay Fodder and Grain Ordinance.

There was another type of Ordinance which the Governor could issue on his own initiative and acting in his discretion. If at any time, whether the Legislature was in session or not, the Governor was satisfied that immediate action was necessary for the proper discharge of any of those functions which had to be performed in his discretion or involved any of his special responsibilities, he could issue an Ordinance without consulting his ministers. It was not necessary for such an Ordinance to be placed before the Legislature, and it could remain in force for a period of six months, but could be extended for a further similar period. The power of issuing such an Ordinance had to be used with the concurrence of the Governor General except in an emergency. Like the first this was also an extraordinary power incompatible with responsible government.

The power of the Governor to issue a proclamation suspending the constitution in whole or in part and assuming to himself all or any of the powers of any provincial authority except the High Court in the event of the breakdown of the constitutional machinery has already been referred to.*

Excluded and Partially Excluded Areas

In the foregoing account of provincial government on several occasions reference has been made to excluded and partially excluded areas whose administration was a special responsibility of the Governor. It seems necessary to explain the meaning of these terms.

See above, page 310, and also page 295.

The whole of British India was not equally advanced educationally, politically, and economically. There were certain communities inhabiting certain areas which were backward; *e. g.*, the Gonds and the Santhals. Parliamentary institutions could not possibly be introduced among such communities. The British Government, out of their great solicitude for their welfare, feared that their interest were liable to be neglected by the popular ministers. Such areas were therefore excluded from the operation of responsible government, and their administration made a special concern of the Governor. An Order-in-Council made on the 3rd of March, 1936, named the various excluded and partially excluded areas in the different provinces.

If an area was so backward that parliamentary institutions could not be introduced in it at all, it was classed as a *wholly* excluded area. The Naga Hill district in Assam and a portion of the Kangra district in the Punjab were two of the several such areas. They were placed under the direct administration of the Governor. If an area was less backward, so that some of the laws passed by the provincial legislature could be applied to it, it was called a *partially* excluded area. The Governor had a special responsibility for its administration. The Jaunsar-Bawar pargana of the Dehra Dun district, and a portion of the Mirzapur district were classified as partially excluded areas in the United Provinces.

Provincial Judiciary

Introductory.—The Act of 1935 set up the parliamentary type of executive in the provinces which has been adopted by the New Constitution. The powers of the Governor and the composition of the legislature have undergone considerable modifications in the new set-up. There has, however, been little or no change in the organisation, powers and functions of the judicial organisation of the provinces; the old order has been taken over almost bodily in the new organisation. Therefore, whereas throughout the preceding description the past tense has been used, in our account of the judicial organisation we shall mostly employ the present tense. The terms 'province', Governor-General, etc., have been retained, as we are describing the system of government as established under the Act of 1935, and not the present system.

Provincial Judicial Organization.—Each Governor's Province hasa well organised judicial system of its own, distinct from its

legislative and administrative organs. It consists of courts of various kinds and ranks. At the apex there is a High Court, or a Chief Court or a Judicial Commissioner's Court. Below it and subordinate to it there are the district courts, civil and criminal. At the bottom there are the munsif's courts for civil suits, and the courts of third class magistrates for criminal cases. According to the kinds of cases tried by them the courts may be distinguished as civil, criminal, and revenue courts. A brief account of the system is subjoined.

High Courts.—As stated above, the High Court stands at the head of the judicial organisation in a province. Seven of the provinces—Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar, and the Central Provinces—have High Courts at their respective seats of government. Oudh had a Chief Court located at Lucknow which has now been amalgamated with the Allahabad High Court. Sind was given a Chief Court in place of the Court of the Judicial Commissioner. For purposes of the Act of 1935 the last three were also treated as High Courts. Assam and Orissa are the two Governor's Provinces which have no High Court or any equivalent Court.

The constitution, powers, and jurisdiction of the High Courts are prescribed by the Act of 1935. A High Court is to consist of a Chief Justice and a number of other Judges whose maximum strength is fixed by the King-in-Council. The Calcutta High Court cannot have more than 19 Judges exclusive of the Chief Justice, the High Courts at Bombay, Madras, and Lahore not more than 15 each, the one at Allahabad not more than 12, and the Patna High Court not more than 11 Judges. The maximum for the Nagpur High Court is 7 Judges, and for the Chief Courts of Oudh and Sind five. The Court of the Judicial Commissioner of the N. W. F. P. cannot have more than 2 Judicial Officers. Every High Court Judge was appointed by His Majesty and was removable by him on the recommendation of the Privy Council. Temporary vacancies could be filled by the Governor General in his discretion. If the number of Judges was less than the prescribed maximum the Governor General could appoint additional temporary Judges for a period of not more than two years. The Indian Legislatures and the Councils of Ministers had thus no hand in the appointment or removal of the High Court Judges. This exclusion was resented

by Indians.

In order to be eligible for appointment as a High Court Judge, a person must be either a Barrister of England or Northern Ireland of at least ten year's standing, or a member of the Faculty of Advocates of Scotland or a pleader of an Indian High Court of the same standing, or a member of the Indian Civil Service of at least ten year's standing who has for at least three years served as a District Judge. A person who has held a judicial office in British India not inferior to that of a subordinate judge or judge of a small cause court for at least five years is also eligible for appointment. A judge can hold office until the age of sixty years. The salaries, pensions, allowances, etc., of the judges are fixed from time to time by the King-in-Council. Their salaries and allowances are a charge on the provincial revenues and therefore not subject to the vote of the Legislature.

The jurisdiction of Indian High Courts is very wide. The High Courts of Bombay, Calcutta, and Madras have both original and appellate jurisdiction, while the other High Courts have mostly appellate jurisdiction. The former have admiralty jurisdiction in regard to cases committed on high seas. All have jurisdiction in matters civil and criminal, and those connected with wills, bankruptcy, civil marriages; and divorce. They superintend the working of courts subject to their appellate jurisdiction, and may call for returns, direct the transfer of any case from one court to another, prescribe rules and forms of practice, and determine the form in which book entries and accounts shall be kept by them. They also appoint clerks and other officers of the court.

Until otherwise directed by an Act of the appropriate Legislature, no High Court will have original jurisdiction in any matter concerning revenue or any act done or ordered to be done in its collection. A Bill seeking to amend this practice cannot be introduced in the Federal or Provincial Legislature without the previous sanction of the Governor General or the Governor given in his discretion. All proceedings in High Courts shall be in the English language.

As original courts in civil cases for Presidency towns, the High Courts can entertain cases involving amounts of money exceeding Rs. 2000/- , and in criminal cases they can try cases committed to them by the Presidency Magistrates. As courts of appeal they hear appeals both in civil and criminal cases from courts subordinate to

him, as well as from their own original side.

They were and are the highest courts of appeal for the Provinces in British India, but are not supreme. Where the amount of money involved in a civil suit is Rs. 10,000/- or more, or when a substantial question of law is involved, an appeal lay from the decision of the High Court to the Judicial Committee of the Privy Council. In cases concerning the interpretation of the Act or an Order-in-Council an appeal from the High Court lay to the Federal Court. Now appeals from them lie to the Supreme Court.

Like the Federal Court, the High Courts also are courts of record. Their decisions are cited as authority before the courts subordinate to them.

Criminal Courts in the District.— For the administration of criminal justice a province is divided in a number of areas called sessions divisions. Their boundaries are usually identical with those of the districts into which the province is divided for administrative purposes. In each sessions area or district there is a Sessions Court which is the highest criminal court in the district. It is presided over by a sessions judge. The Government may appoint one or more additional sessions judges in the district to help him. The Sessions Court has both original and appellate jurisdiction. It is competent to try all criminal cases committed to it and to inflict the highest punishment authorized by law. Every death sentence passed by it is subject to confirmation by the High Court to which it is subordinate. The Sessions Court hears appeals against the decisions of the lower criminal courts in the district subordinate to it.

Below the Sessions Court there are the courts of the magistrates in the district. They are of three grades. A first class magistrate is competent to pass a sentence of imprisonment up to two years and a fine not exceeding Rs. 1,000/- . If authorised to do so in writing by the District Magistrate, he can hear appeals from the lower courts. A second class magistrate can pass a sentence of imprisonment up to six months and a fine of Rs. 200/- . A third class magistrate is empowered to pass a sentence of one month's imprisonment and a fine of Rs. 50/- . Second and third class magistrates have no appellate jurisdiction. The territorial limits of the jurisdiction of the various courts are fixed. Cases which they are not competent to try are committed to the Sessions Court.

In each district the District Collector is given the powers of a

first class magistrate, and is also known as the District Magistrate. In this capacity he supervises the work of other magistrates in the district and distributes work among them. Except in specified matters, the District and other magistrates are not subordinate to the Sessions Judge. In the Presidency towns there are Presidency Magistrates, and in big cities City Magistrates to dispose of criminal cases and to commit the more important ones to the Sessions Court or the High Court as the case may be.

Besides stipendary magistrates of the various classes, there are honorary magistrates. They also are ranked as first, second and third class magistrates. Generally only petty cases are sent to them. They usually work as a bench, and are appointed by the provincial government. The Provincial Government may confer the powers of a first, second, or third class magistrate on any person to be known as a Special Magistrate for specified term for dealing with criminal cases in a given locality or area outside Presidency towns.

Civil Courts in the District.— The civil courts functioning in the district are of several ranks. The highest of them is the court of the District Judge. The District Judge has both original and appellate jurisdiction. On the original side he can entertain suits irrespective of their pecuniary value ; on the appellate side he hears appeals from the lower courts subordinate to him or in cases in which the amount involved is not more than Rs. 5,000/-.

Below the court of the District Judge are the courts of the Civil Judge and the Munsif. The Civil Judge can try almost any civil suit irrespective of the amount of money involved and has appellate powers also. In other words, his powers are almost similar to those of the District Judge to whom he is subordinate in administrative matters. Appeals from him lie to the High Court. Below the Civil Judge there are the courts of the Munsifs who can try civil suits up to the value of Rs. 5,000/-. The Munsifs have no appellate jurisdietion. Besides these there are the Small Cause Courts. They can try cases up to the value of Rs. 250/-, and if authorised in writing by the Provincial Government, upto the value of Rs. 1,000/-. In Presidency towns the minimum value has been put at Rs. 2,000/-. Small Cause Courts are given summary powers to facilitate the recovery of small debts and quich disposal of minor suits. As a rule there is no appeal against theit judgments, except on questions of law.

The court of the District Judge is different from that of the

Sessions Judge in as much as the former is a civil court and the latter criminal. Nevertheless in the United Provinces and other provinces as well, the two have one and the same presiding offier. He is known as the District and Sessions Judge. Since he unites in himself extensive civil and criminal powers, both in original and appellate jurisdiction, he is an important district officer. Besides his judicial functions he has some administrative duties also. He supervises and controls all the subordinate courts in the district, assigns to the assistant judges the disposal of such cases as he thinks fit, and makes arrangement for the guardianship of the minors and lunatics and the management of their property. The post of District and Sessions Judge is thus an important post and was usually filled by members of the Indian Civil Service. Appointments and postings to it are made by the Governor exercising his individual judgment. Promotions of District Judges are made by the same authority. Persons not already in the service of the Crown could also be appointed as District Judges if they were Barristers of England and Northern Ireland, members of the Faculty of Advocates of Scotland of not less than five years' standing or pleaders of an Indian High Court of the same standing, and were recommended by the High Caurt for appointment. The expression 'District Judges' includes additional district judges, joint district judges, assistant district judges, chief presidency magistrates, sessions judges, and additional and assistant sessions judges.

Appointments to the subordinate judicial service, *i. e.*, appointments to judicial posts in the district other than the district judges as defined above are made by the Governor. The candidates who are appointed are selected by the Public Service Commission in consultation with the High Court on the basis of a public examination conducted by the former. This procedure has been laid down to secure independence and impartiality of the subordinate judiciary.

Revenue Courts.— Besides the civil and criminal courts in a district there are also revenue courts which deal with matters arising out of the assessment and collection of land revenue. They also try cases involving disputes about land and rent. The Collector is the chief revenue official in the district, and his court the chief revenue court. Under him are the courts of deputy collectors and tehsildars. Appeals from the lower courts lie to the Collector and from him to the Commissioner of the Division. The Board of Revenue is the

highest revenue court in the province. It was a circuit court ; it used to sit at different places from time to time : but recently there has been a notable change. It now sits permanently at Allahabad, and litigants have to go there at much cost and inconvenience.

Some Features of the Indian Judicial System.— *(i)Jury system.* Our judicial system has certain important features which deserve attention. One of them is the recognition of the system of trial by jury in criminal cases. Trial by jury is considered to be a very valuable privilege of the accused, a guarantee of justice being meted out to him and therefore a bulwark of popular liberty. It was won by the British people after a hard struggle against the government.

The system of trial by jury has a limited application in India. It is resorted to in the capital cities, and there also in important cases only. Trial by jury is the rule in criminal cases tried by High Courts on their original side. In the mofussil courts it is not considered to be always practicable to secure the services of a competent and independent jury. Therefore recourse is sometimes had to trial by assessors. The difference between trial by jury and trial with the help of assessors is important and must be clearly grasped. The difference lies in the fact that in the former the verdict of the jury is binding on the trying magistrate. He has to accept it unless he feels that it is manifestly unjust and perverse, in which case he has to refer the matter to the High Court which may set aside the verdict of the jury. The magistrate himself has no power to disregard it. One might say that in a trial by jury the jury is the tribunal, the function of the judge being to help it by summing up the evidence and arguments for and against the accused and explaining the law under which the accused is being tried. The responsibility of the jury for the decision is in no way less than that of the magistrate. If the jury are divided among themselves, the magistrate can order the re-trial of the case by another magistrate and a different jury. In trial by assessors, on the other hand, the opinion of the assessors is not binding upon the magistrate ; he might disregard it. The responsibility for the decision is that of the magistrate and not that of the assessors. The magistrate is the real tribunal, the assessors merely help him. As to the procedure to be adopted by the court there is no difference between trial by jury and trial with the help of assessors.

(ii) Privileged Position of European British Subjects in Criminal

Trials.— The second feature of our judicial system was the grant of certain special privileges to European British subjects in criminal trials. For long Indian magistrates, even of the rank and status of a Sessions Judge, were debarred from trying them, while their European subordinates had that right. To remove this most unjustifiable distinction a measure called the Ilbert Bill was introduced in the Central Legislature in 1883. There was a storm of protest among the Europeans in British India against the measure. As a result of their vehement opposition the Bill was withdrawn, and a compromise measure was passed the following year. It gave to the Indian District Magistrates and Sessions Judges the power of trying European accused on the condition that the latter had the right of claiming, even in most trivial cases, trial by a jury at least half the members of which must be Europeans or Americans. The compromise thus did not abolish racial discrimination in the judicial field ; it gave to the European offenders a privilege simply on the ground of their being Europeans. The distinction persisted till India became independent. It may also be pointed out that where a European British subject was involved, a second or third class magistrate could enquire into or try only those offences which were punishable with a fine of Rs. 50/- . The sentences which a First Class or a District Magistrate, or a Sessions Judge could pass on European accused were also specially circumscribed. There were other privileges granted to them which are pointed out by the Racial Distinction Committee into which we need not go. All this has become past history now.

(*iii*) *The Combination of Judicial and Executive Functions.*— The principle of separation of powers has been observed to a large extent in the organisation of the three organs of Government— the legislature, the executive, and the judiciary— in the provinces. It was not fully complied with in so far as the Governor had been vested with extraordinary powers of legislation, and judicial and executive functions were combined in certain officials, *e. g.*, the District Magistrate and Collector and his subordinate executive officers, the deputy-collectors, the sub-divisional officers, and the tehsildars. Here we find the union of the executive and judicial functions which has not only meant the denial of justice to the accused in political cases, but has also led to much servility and lack of independence on the part of subordinate judiciary. As the head of the civil adminis-

tration the District Collector is concerned with the collection of revenue. He is also responsible for the maintenance of law and order. In this capacity he has to deal with individuals and institutions over whom he should not have judicial powers, lest he should use them to their disadvantage. But his position as the District Magistrate gives him power over the administration of criminal justice in the district which places the individuals who come into conflict with him at his mercy. The magistrates subordinate to him cannot deal justly and in an independent spirit in political cases, as their position and promotion depend upon the goodwill of the District Magistrate whom they cannot afford to displease. Threats like 'the sentence is inadequate ; if this occurs again I shall report your misconduct to Government' which are quoted by Sir Henry Cotton in his book *New India* show the difficulties and dangers that lurk in the combination of judicial and executive functions. Indian opinion has long been highly critical of it ; attempts have recently been made to take away the judicial functions of the District Magistrates.

(iv) Appeals.—The Indian system allows a wide latitude for appeals in civil, criminal and revenue cases. Two appeals are allowed in civil cases with the right of appeal in the third instance to the Judicial Committee of the Privy Council (now to the Supreme Court), if the amount of money involved is Rs. 10,000/- or more. In criminal cases one appeal is permitted. Applications for revision against the decision of the appellate court are also permitted. Two appeals are allowed in revenue cases also.

In civil suits an appeal lies to court of the district judge or the civil judge from the courts of the munsifs. Against the dicisions of the appellate court, a further appeal lies to the High Court. An appeal from the court of the civil judge or from that of the district judge lies to the High Court and from the latter to the Privy Council. Appeals from the High Court sitting as a court of the first instance are heard by its appellate side. If the question concerns the interpretation of the Act (or an Order-in-Council) an appeal lies to the Federal (now Supreme) Court.

In criminal cases an appeal against the decision of a court of the second or third class magistrate lies to the court of a first class magistrate specially empowered in this behalf by the District Magistrate. An appeal against the decision of a first class magistrate

lies to the Sessions Judge; while an appeal against a decision of the Sessions Court lies to the High Court. An application for revision can be heard by the Sessions Court against the judgment in appeal given by a first class magistrate, and by the High Court against the judgment in appeal given by the Sessions Court. The right of appeal is restricted in cases tried by jury.

In revenue cases appeals from the decisions of the Collector lie to the Divisional Commissioner, and thence to the Board of Revenue Only in a few revenue cases involving partition, etc., appeals may lie to the High Court.

The highest court of appeal for India was the Judicial Committee of the Privy Council in England. It had no original jurisdiction. It was the final court and entertained appeal from all parts of the British Empire. An appeal against a decision of the High Court in civil cases lay if the amount of money involved was Rs. 10,000/- or more, and a question of law as distinguished from a question of fact was involved. Similarly, in criminal cases an appeal lay only if a substantial question of law was involved. Permission to file an appeal was to be granted by the High Court. Independent India has abolished appeals to the Privy Council. Now the Supreme Court is the final and the highest court for the whole of the Indian Union.

This rather wide latitude for appeal has a bad effect. It encourages litigation and makes justice expensive. Litigation in India is more expensive than in most other countries. The heavy charges levied by the members of the legal profession and the cost of court fees and stamp duties combine to make administration of justice a costly affair in our country.

The Home Government of India

Introductory.—Till 1947 India was not a free and independent country like the U. S. A. or Russia, but was a dependency of Great Britain. The result of her political subjection was that the Government of India was not quite free to choose and follow any policies it liked, but had to accommodate its actions to the orders and instructions it received from the authorities in Great Britain. One might, therefore, say that the administration of the country was controlled and managed by two different agencies, one located and functioning within her borders, and the other having its seat in London and directing the affairs from there. In this and preceding

chapters we have given an account of the composition and character of the first named agency; in this section we shall describe the agency which functioned in Great Britain, and was usually known as the 'Home' Government of India.

The Secretary of State for India-in-Council.—Up to the passing of the Act for the Better Government of India in 1858, the 'Home' Government consisted of the Court of Directors of the East India Company and the Board of Control set up in 1784. When in 1858 the Government of India was transferred from the Company to the Crown, the 'Home' Government came to consist of the Secretary of State for India-in-Council. The Secretary of State for India was a member of the British Cabinet, and as the immediate agent of Parliament was responsible to it for the administration of Indian affairs. It was through him that the British Parliament maintained control over the Government of India and kept itself informed of the way in which the affairs of this big Dependency were managed. The Secretary of State inherited all the powers previously exercised in relation to the Government of India by the Court of Directors and the Board of Control. The Act of 1919 vested in him the power to superintend, direct and control all acts, operations and concerns which related to the government or revenues of India. The Governor General and through him the Provincial Governors were required to pay due obedience to his orders. All legislative projects of the Central and Provincial Governments needed his approval. All variations in taxation, all measures affecting revenues, customs, currency and exchange, and all proposals involving fresh expenditure and change of policy had to be laid before him. No payments out of Indian revenues in the shape of salaries, allowances, gratuities, etc., could be paid without his sanction. The Home Charges amounting to about one-fifth of the total expenditure of the Government of India were under his control. The recruitment of the Public Services and the management of the departments of the Government of India in England were also under his control. It was on his advice that the Crown made appointments in India excepting that of the Governor General. It is true that in the exercise of his various functions he had to carry a majority of the India Council with him. Nevertheless his powers over the Government of India were very vast; nothing of importance could be done by the latter against his wishes. It should however be remembered that the

control exercised by the Secretary of State-in-Council varied with the personal factors involved. As has been stated in an earlier chapter, if strong Secretaries like Lord Morley proceeded upon the assumption that the Government of India were the agents of the Secretary of State, a strong Governor General could also make a Secretary of State the mouthpiece of his policies in the British Parliament. The extent to which it was found desirable and necessary to relax the control of the Secretary of State over the administration of the transferred subjects in the Provinces and in some other directions has been already explained.

The Act of 1935 made a fundamental change in the legal status of the Secretary of State for India, though his powers to control the Government of India remained practically the same as before. The change consisted in this that whereas under the Act of 1919 he was in the foreground and the Crown in the background, under the new Act he fell into the background and the Crown came came into the foreground. There is no section in the Act of 1935 corresponding to the section in the Act of 1919 which vested the superintendence, direction, and control over all acts, operations and concerns of India in the Secretary of State. Instead, the Act vested territories and the executive authority in India in the Crown. In this manner the Crown came into the foreground. But because all the powers of the Crown in relation to India were to be exercised on the advice of its constitutional adviser, the Secretary of State for India, the powers of the latter in reality remained great. The change made by the Act was thus formal and not real.

In all the matters in which the Governor General and the Provincial Governors were required by the Act to use their discretion or exercise their individual judgment, they were under the control of the Secretary of State and had to pay obedience to his orders and instructions. Since the discretionary powers and special responsibilities of the Governor General and the Governors covered almost the entire field of administration, the control of the Secretary of State over Indian affairs was bound to be extensive. He was in a position to control the administration of the key departments of Foreign Relations, Defence, and Tribal Areas in the federal sphere. He also regulated the currency and exchange system of the country which were to be managed by the Reserve Bank. It is hardly necessary to refer to the other discretionary powers and special

responsibilities of the Governor General and the Governor like the issue of Ordinances and the enactment of special Acts. As the constitutional adviser of His Majesty he was in a position to control the issue of the Orders-in-Council, the issue of the Instrument of Instructions to the Governor General and the Governors, the appointment of the Governors, and of the High Court judges. He exercised His Majesty's power of disallowing Acts passed by the Indian Legislatures and assented to by the Governor General or the Governors. He possessed the power to borrow money in the British market on behalf of the Federal and Provincial Governments, recruit the personnel of the Public Services and determine the conditions of their service, salaries, allowances and pensions, and protect their interests. The great role played by the Secretary of State in Indian administration may best be described in the following words of Prof. K. T. Shah : 'His powers may not be so imposing in appearance as those of the Governor General or the Provincial Governors. But these are merely his creatures, obedient to every nod from the Jupiter of White Hall, amenable to every hint from this juggler of Charles Street. His powers extend not merely to matters of fundamental policy ; to the protection of British vested interests ; to the safeguarding of Britain's imperialist domination. They comprise even matters of routine administration, the more important doings of the Indian Legislatures and even the appointment, payment or superannuation of certain offcers in the various Indian services or governments. He has, in fact, all the power and authority in the governance of India, with little or none of its responsibility.'*

Advisers to the Secretary of State.— The India Council, which had been instituted along with the creation of the office of the Secretary of State for India in 1858 and against whose continued existence there was a strong opposition in our country, was after all abolished by the Act of 1935. It ceased to function the day the new Constitution was inaugurated, namely on the 1st of April, 1937. But the J. P. C. which recommended its abolition also felt the necessity of providing the Secretary of States with experienced advice on Indian questions. The Act therefore provided for the appointment of a number of *Advisers* to the Secretary of State. They were to be not less than three and not more than six in number, and were to be appointed by the Secretary of State for the purpose of advising him

* *Federal structure*, page 386.

on any matter on which he might seek their advice. One half of them were to be persons who must have served in India under the Crown for not less than 10 years and must not have relinquished their office more than two years before their appointment. They were to hold office for a period of five years and were not eligible for reappointment. They could resign office earlier, and could be removed from office by the Secretary of State on ground of infirmity of mind or body. The members of the India Council as it existed on the eve of its dissolution were eligible for appointment as Advisers. The Advisers could became members of Parliment, and were to receive each a salary of £ 1350/- per annum, plus an annual allowance of £ 600/- for those who were domiciled in India at the time of their appointment. No Adviser could sit or vote in parliament.

Whether or not to consult his Advisers on any matter, or whether to consult them individually or collectively was left to the discretion of the Secretary of State. And after having consulted them, he might or might not have accepted their advice. But in respect of matters pertaining to the Public Services he had to consult them and abide by the advice of the majority.

Progressive Indian opinion regarded the Advisers as the extinguished India Council in disguised form, and was therefore unreconciled to their creation. In view of their qualifications we may say that they were very likely to exert a reactionary and conservative influence on the Secretary of State. It is highly significant to note that Sir Reginald Maxwell, who made himself notorious and most unpopular with the Indian people by the manner inwhich he tried to Indian aspirations and repress the national movement, was appointed as his Adviser by the Secretary of State on his relinquishing service in India.

Before the Act of 1935 came into force the expenses of the India Office establishment were a charge upon Indian revenues. An annual grant of £ 150,000 was made towards the expenses by the British Treasury. Under the new Act this arrangement was reversed. The expenses were thenceforth to be met out of funds provided by Parliament but the Government of India was required to make a contribution towards the cost. Since its amount was to be determined by the Treasury* and the Governor General, from the financial

* Treasury is the name by which the Finance Department of the Government of Great Britain is known.

point of view it made little or no difference.

High Commissioner for India—The office of the High Commissioner for India was created under the Act of 1919. The agency functions previously discharged by the Secretary of State were taken away from him and entrusted to the High Commissioner. The Act of 1935 retained the office. Its incumbent was to be appointed by the Governor General acting in his individual judgment. His salary was determined by the same authority and was met out of Indian revenues. The term of his office was usually five years. His principal duty was to procure for the Federal Government, the Provincial Governments and such Indian States as might have joined the Federation and also for Burma such commodities as they might require. He was expected to make purchases after inviting tenders and in the cheapest market. He was expected to bear in mind Indian interests in making the contracts He also looked after the welfare of Indian students prosecuting their studies in England. The Act of 1935 made no substantial change in the position, status or functions of the High Commissioner. The Dominions also have their High Commissioners in London. There was a fundamental difference between the Dominion High Commissioners and the Indian High Commissioner. The former represent their respective Governments and act as a channel of communication between the Imperial Government and the Dominion Governments. The High Commissioner for India had no such status and function.

Parliamentary Control.—Even during the rule of the East India Company the British Parliament claimed and exercised powers of sovereignty over British territories in India When the Company rule came to an end and the responsibility for the Government of India was transferred to the Crown, the sovereignty of the King-in-Parliament was formally and legally proclaimed.

This sovereignty was exercised in several ways. The most important of them was the determination of India's constitution and the pace of her constitutional development. The Preamble to the Government of India Act of 1919 gave expression to it in unmistakable terms. We have laid stress on the non-sovereign character of the Indian Legislatures more than once. In this connection, it should also be remembered that Parliament had the power to alter and repeal the laws made by the Indian Legislatures and to make laws for British India. The power of the King-Emperor to

disallow any law made by the Indian Legislatures was also a deduction from the sovereignty of the Crown. There were no limitations or restrictions upon the sovereignty of the King-in Parliament.

Being situated at a distance of about 6,000 miles and also as a result of the ignorance of its members about Indian conditions and affairs, Parliament was not in a position itself to direct and control the administration of India. This task was left to its agent, the Secretary of State for India. The extent to which this dignitary exercised control over Indian affairs has already been examined. Even under the Act of 1919 the need of relaxing his control was felt, and rules were made to that effect. The position was that the Secretary of State was not responsible to Parliament for the administration of subjects transferred to the control of popular ministers in the Provinces. With regard to the Central Government, the convention was developed that the Secretary of State would not interfere if any matter of fiscal policy there was agreement between the Government of India and the Central Legislature.

Since the Act of 1935 contemplated greater transfer of political power to the people, the responsibility of the Secretary of State to Parliament correspondingly diminished. A government can not be made answerable to two different authorities. The Government of India could be responsible to the people of the country or to the British Parliament ; it could not be made responsible to both at one and the same time and for the same things. In so far as the Provincial Governments were answerable to their respective Legislatures, the control of the Secretary of State had to be abandoned. The same thing would have held good about the Federal Government. But since the transfer of power was not full and complete,—there were serious limitations upon provincial responsibility, and there were reserved subjects in the centre,—the control of the Secretary of State could not be fully withdrawn. In so far as the Governor General and the Provincial Governors were required by the Act to use their discretion or exercise their individual judgement they remained answerable to the Secretary of State and through him to Parliament.

Even when India became a Dominion in 1947, and the control over the administration of internal affairs was completely transferred to the people, the Crown remained the sovereign Power, and India continued to owe allegiance to the British King. Parliament was,

however, completely deprived of its right to control Indian administration. And when India declared herself a Sovereign Republic on January 26, 1950, her connection with the British Empire altogether ceased and the sovereignty of the Crown also came to an end.

Amendment of the Constitution.—A few words may be added about the way in which the Indian Constitution could be amended. It was very rigid ; it had no seed of growth in it and seemed to bear an oppressive impress of finality. The people of India and their elected representatives in the various legislatures were not given any power to amend the constitution except in a very minor matter. As has been already stated, the Federal Legislature was given the power to extend the appellate jurisdiction of the Federal Court. In all other respects, the right to amend the constitution was reserved by Parliament to itself.

In a few matters of minor importance the Act could be amended by means of Orders--in-Council with the assent of Parliament and no request by the Federal or Provincial Legislatures. They are the following : (*i*) The size and composition of the Chambers of the Federal Legislature, the method of election to them and qualifications of the members thereof, but in such a manner as not to vary the relative proportion between the Council and the Assembly and between the States and British India; (*ii*) then number of Chambers in a Provincial Legislature, their size or membership; (*iii*) any amendments with regard to the qualifications of members; and (*iv*) the substitution of literacy in place of higher educational qualifications for women, or the entry of their names without application. Except as regards the last, no amendments could be made before the expiry of ten years from the establishment of Federation or Provincial Autonomy, as the case may be. The proced ure laid down was very elaborate. It is not necessary to describe it.

One more point about the amendment of the constitution deserves mention. The Act laid down that, leaving aside certain matters which are enumerated in Schedule 2 (they do not touch the fundamentals of the structure of the Federal Government), the consent of the federating States was necessary for the amendment of the Act. In other words, unless the States agreed, full responsibilities could not be introduced in the Federal sphere The advance towards full responsible government was made dependent on the good-will of the States. This was a highly retrograde step.

CHAPTER IX

The Act of 1935 in Operation

Introductory.—In the two preceding chapters we have described the main provisions of the Government of India Act of 1935 in so far as they relate to the establishment of the Indian Federation, and the structure, composition, powers and functions of the federal and provincial governments. There is no doubt that the Act constituted a great advance on the Act of 1919; it proposed the introduction of partial responsibility in the Centre and the establishment of full responsibility in the provinces. But progressive opinion in the country as voiced in the resolutions passed by the Indian National Congress at its Faizpur session and the speeches delivered by its accredited spokesmen condemned it lock, stock and barrel. It was denounced because of the reservations and safeguards which figured so prominently in it, and which, if interpreted strictly and enforced vigorously, would have killed the soul of responsible government. The Governor General and the Provincial Governors had the power to intervene in almost every sphere of administration; they could not only veto legislation, but also legislate on their own authority, and do almost anything they wanted, even in direct opposition to the wishes of the popular ministers. The superior services and the police were protected and could hardly be touched by the ministers; they looked to the Governor and not to the ministers for guidance. In short, the machinery and structure of government, from the Governer down to the petty official and the policeman, remained what it was in the past; only somewhere in the middle of it popular ministers were to carry on as best as they could.

General Elections of 1937.—As has been shown earlier, on account of the delay in the accession of the Indian States to the proposed Indian Federation it was decided by the British Government to give effect only to that part of the Government of India Act of 1935 which pertained to the establishment of responsible government in the Governor's Provinces. Arrangements were therefore made for the general elections in the Provinces, which were to be held early in 1937. Inspite of the highly disappointing nature of the Act, Congress decided to take part in the elections to

the provincial legislatures. Its President, Pandit Jawahar Lal Nehru, made a whirl-wind tour of the country and carried the message of the Congress to every nook and corner. The election campaign demonstrated that, inspite of the ruthlessness and severity of the measures adopted by the Government of Lord Willingdon, the Congress organisation had not collapsed; almost every village had its Congress office or at least some resident Congress members. The results of the election were equally significant; Congress achieved a great victory, greater perhaps than what even its supporters had expected. It obtained clear majorities in six provinces; namely, U. P., Bihar, Orissa, C. P., Madras and Bombay. These were Hindu-majority provinces. In Assam, Bengal, and the N. W. F. P. though it was the largest single party, it constituted a minority. Its success in N. W. F. P. was a notable achievement. In the two remaining Muslim majority provinces, namely, the Punjab and Sind, it fared rather badly. It is interesting and relevant to note that the Muslim League did not achieve any great success in the 1937 elections; it could secure only 51 seats out of a total of 482 seats reserved for the Muslims in the whole of British India. Congress Muslims contested 58 seats and won 26. In the Punjab the Unionist party which was a coalition of Muslim, Hindu, and Sikh agricultural interest won 106 out of 175 seats. This party, though dominated by the Muslims, was not subject to the control of the Muslim League. In Bengal there were three Muslim parties, the Muslim League (40 members), the Independents (41) and the Praja Party (35). These figures show that in 1937 the Muslim League had not acquired the same influence with the Muslim masses as the Congress had with the Hindus, and as it acquired a few years later. At that time the League was stronger in the Hindu majority provinces than in the Muslim-majority provinces. It is also worth noting that while the Congressmen returned to the various provincial legislatures constituted a disciplined body, subject to the control of a strong central authority, popularly known as the Congress High Command, the Muslim members (except the Congress Muslim who were returned on the Congress ticket) had no similar cohesion and discipline. The control and authority of the Muslim League developed a few years later.

Two other facts about the elections must be noted. Firstly, the Liberals were routed in the elections. In Madras the Justice

party which had controlled the legislature since 1922 suffered a great defeat; it could secure only 21 seats as against 159 of the Congress in the lower house. Secondly, the Congress had contested the elections not to *work* the Act but to *combat* it. It had rejected the Act, and so there was no question ofworking it in a spirit of cooperation with the British Government. The Muslim League and other parties had adopted a different attitude; they did not seek to destroy it but to utilise the opportunities it offered for what they were worth. This difference of approach had an important consequnce which will become clear presently.

Controversy over Office-Acceptance.—The remarkable success of the Congress in the elections created the problem as to how the majorities in the provincial legislatures were to be used to the best advantage. There were two schools of thought. One of them led by C. Rajagopalachari, Sardar Patel and Rajendra Prasad took the view that office should be accepted under the new constitution with a view to the strengthening of the position of the Congress in the struggle for freedom. The other school led by Pandit Jawahar Lal Nehru and Subhash Chandra Bose held the opinion that acceptance of office would cool the revolutionary ardour of the Congress and betray the cause the Congrrss had espoused, and that the Congress majorities could best be used to make it impossible for the other parties to form ministries. The controversy between the opposed views was keen. Mahatma Gandhi intervened in it and suggested a compromise formula which was acceptable to both the groups and was made the basis of the resolution passed by the All India Congress Committee on the 13th of March 1937. It authorised and permitted 'acceptance of office in the provinces where Congress commands a majority in the legislature, provided that Ministerships shall not be accepted, unless the leader of the Congress party in the Legislature is satisfied and able to state publicly that the Governor will not use his special powers of interference or set aside the advice of ministers in regard to their constitutional activities.' In short, the Congress demand was that the Governors should act more or less like constitutional heads in relation to their popular ministers and act on their advice even in matters where they were empowered by the Act to act in their discretion or exercise their individual judgment.

The Governors refused to give any such assurance to the

leaders of the Congress majority parties in Bombay, Madras, U. P., Bihar, Orissa, and the C. P., when the latter were invited by them to form the ministries in the different provinces. They took the view that they could not voluntarily divest themselves of the powers conferred upon them by the Act ; it could not be done without an amendment of the Constitution. Mahatma Gandhi thought otherwise, and held that the Governors could easily develop the convention of not using their special powers. The whole history of constitutional development in Great Britain illustrates the point that powers vested in an authority become obsolete through sheer disuse.

The leaders of the non-Congress coalition majorities in the Punjab, Bengal, Sind, Assam and N. W. F. P. did not demand any such assurance, and popular ministeries began functioning there with effect from the 1st of April, 1937. In the other Provinces where Congress commanded a majority in the legislature the Governors selected their ministers form minority parties who were willing to work the constitution. These ministries came to be known as Interim Ministries, for it was evident that they could not function on a permanent basis. They could never hope to secure the confidence of the Provincial Legislative Assembly whose meeting had to be convened within six months. At the most they could remain in office for six months.

Congress Decision to Accept Office.— The appointment of the Interim Ministers was a stop-gap arrangement. The plan of allowing them to function by deferring the convening of the legislative assemblies provided an interval during which both the Congress and British Government developed and clarified their respective viewpoints. The long drawn out controversy came to an end with a very conciliatory broadcast speech on June 21 by the Governor General, Lord Linlithgow in the course of which he declared that under Provincial autonomy the Governor will ordinarily be guided by the advice of Ministers in all matters falling within the ministerial field, including the position of minorities, the Services, etc., and that the Ministers will be responsible not to the British Parliament, but to the Provincial Legislatures. He further added that the Ministers had the duty of advising the Governors over the whole range of the executive government within the ministerial field, including the area of his responsibilities and that in all matters in which he is not specially required to exercise his individual judgment, it would be

mandatory upon the Governor to accept the advice of his Ministers. He also pledged himself to strive untiringly for the full and final establishment in India of the principles of parliamentary government. Although the Viceroy's speech did not surrender any constitutional ground, it was highly conciliatory and was accepted as such by the Congress Working Committee. In its meeting held at Wardha on July 7, 1937, the Working Committee passed a resolution from which the following extract is given : 'The Committee feels, however, that the situation created as a result of the circumstances and events that have since occurred warrants the belief that it will not be easy for the Governors to use their special powers. The Committee has ...... resolved that Congressmen be permitted to accept office where they may be invited thereto, but it desires to make it clear that the office has to be accepted and utilised for the purpose of working it in accordance with the lines laid down in the Congress Election Manifesto and to further in every way the Congress policy of combating the new Act on the one hand, and of prosecuting the constructive programme on the other.'

This resolution was revolutionary in nature ; it marked the beginning of a new phase of Congress activities. Till then the Congress had been a fighting organisation, bending all its energies to the end of emancipating the country from bondage to foreign rule, ; now, for the first time, it undertook the responsibility for carrying on the administration in six provinces. This should not be taken to mean that it gave up the fight for national freedom ; the resolution of the Working Committee makes it clear that office was accepted with the dual purpose of furthering the constructive programme of the Congress and combating the Act. The whole episode reveals the political acumen and insight of Mahatma Gandhi, the author of the 'assurance clause'. Though no formal assurance was given by the Governors, yet the whole controversy resulted in a great widening of the bounds of the constitution. The shadow of responsible government which was all that the Act of 1935 can be said to have conceded was converted into something very much like real popular or self-government.

No coalition with the League.— The decision to permit Congressmen to accept office raised a very vital question ; namely, whether or not to join other groups to form coalition ministries in provinces like Bengal, Assam, and the Punjab. There was also the

question of taking in members of the Muslim League as ministers in Congress majority provinces like the U. P. and Bihar. It was considered desirable to associate as many parties as possible in the work of administration, and there was no objection on principle to coalition ministries. Nevertheless, ths Congress decided against coalition ministries. The reason was that the Congress had decided to accept office with a two-fold purpose ; namely, to carry through the legislatures constructive measures of reform, and to carry on the struggle for independence. It was expected that in the execution of this two-fold objective there would be conflict with the representatives of British Imperialism— with the Governors, the superior Services, and also with vested interests in land and industry over agrarian and labour question. If non-Congress elements were admitted into the provincial cabinets, it was feared that they would tone down the Congres programme of social legislation, or at any rate, obstruct and delay it. Alliance with the League would not make the Congress stronger ; it might on the other hand weaken it. 'There might even be intrigues with the Governor over the heads of the other ministers. A joint front against British authority was essential. Any breach in it would be harmful to our cause. There would have been no binding cement, no common loyalty, no united objective, and individual ministers would have looked and pulled in different driections.'* In short, it was felt that Congress would be stronger if it stood alone. It however asked the Leaguers to become members of the Congress and work with it for the independence of India and the amelioration of the masses.

The decision to exclude non-Congress men from the cabinets, however sound and logical, had disastrous consequences. It caused serious disappointment to aspirants for ministerships in the Muslim League and led to a feeling of isolation and grievance among them. Mr. Jinnah began to say that the Muslims could expect neither justice nor fair play under the Congress Government. The League drifted more and more away from the Congress and the communal problem became accentuated. The communal tension of the following years leading to the League demand for Pakistan was thus the direct outcome of the exclusion of Muslim Leaguers from Congress Cabinets.

Working of Provincial Autonomy.— Soon after the Congress

* Jawahar Lal Nehru : *The Discovery of India*, page 312.

decision to accept office the Interim Ministries resigned in the Congress-majority provinces and Congress took office in July 1937. A Congress ministry was installed in the N. W. F. P. a few months later. The real working of the new constitution in these provinces may be said to have begun with the formation of Congress ministries. They remained in the saddle till October 1939; when they tendered their resignations in eight provinces on the war issue. During these twenty-eight months provincial executives functioned more smoothly than was expected. There was the minimum of interference by the Governors with the work of ministers ; instances where the Governors invoked their special responsibilities were rare. Most Congressmen account for this smooth working in terms of the 'gentleman's agreement' reached between the British Government and the Congress. We have the testimony of Mahatma Gandhi that the Governors played the game. The Indian Civil Service also gave full support to the new ministers in the execution of their schemes. The prediction that the bureaucracy would not offer cooperation in the working of provincial autonomy did not turn out to be true. On the other side, the Ministers also acted with restraint and did not raise issues merely for the sake of creating deadlocks. This should not be interpreted to mean that the Congress Ministers refrained from pursuing their policies simply because they were afraid of obstruction from the Governors. On some occasions there were differences of opinion between the Ministers and the Governor ; *e. g.*, on the question of release of political prisoners in the U. P. and Bihar which led to the resignations of the former. The differences were however resolved, and the Ministers went back to their offices. In Orissa also there was a crisis, but it was solved. In the field of legislation a great majority of bills passed by the provincial legislatures received the assent of the Governors. Only four were vetoed.

It is not necessary to refer to the way in which Congress ministries handled the problem of the maintenance of law and order which was made difficult by the recrudesence of communal troubles and discontent on the part of agrarian workers and industrial labour, and to the achievements of the Congress in the fields of education, temperance, agrarian reform, etc. We would content ourselves with quoting Coupland. He writes as under : 'Taken as a whole the record of its Ministers was one in which the Congress could take a reasonable pride. Its leaders had shown that they could act as well as talk,

administer as well as agitate, and among them and their followers there was a genuine ardour for social reform.'*

Reference must however be made to the effect produced by the establishment of Congress Governments on the masses. Pandit Jawahar Lal Nehru describes it in the following words : 'But the psychological change was enormous and an electric current seemed to run through the countryside. The change was noticeable more in the rural areas than in the cities, though in the industrial centres the industrial workers reacted in the same way. There was a sense of immense relief as of the lifting of a weight which had been oppressing the people ; there was a release of long suppressed mass energy which was evident everywhere. The fear of the police and secret service agent vanished for a while at least and even the poorest peasant added to his feeling of self-respect and self-reliance. For the first time he felt that he counted and could not be ignored.'‡

It may be noted in passing that there were no similar manifestations of a new life in provinces like the Punjab and Bengal where 'there was no relaxation of the police and secret service raj', and political prisoners were not released. In the Punjab the old spirit continued and in Bengal thousands of persons were detained in jails without trial. There was a good deal of difference in the working of the new Act in Congress and non-Congress governed provinces.

Resignation of Congress Ministries.— This association of Congress with the work of administration which was productive of much good came to an end with the resignation of ministries in Congress-majority provinces in October 1939 on the war issue. The causes and repercussions of this step will be stated in the next chapter. Here only this much be stated that their resignations put an end to responsible government in eight provinces where Sec. 93 of the Act was applied and the Governors assumed all the powers of government in their own hands. In two provinces however non-Congress ministries were subsequently formed— in Orissa towards the end of 1941 and in N. W. F. P. in the spring of 1943. In the remaining six the Governors's regime continued till fresh elections were held in 1946 and pnpular governments reinstated under vastly different conditions. The course of events between the resignation of Congress ministries in 1838 and the resumption of power by Congress in

* oupland : *India, A Restatement*, page 160—62.

‡ Jawahar Lal Nehru, *The Descovery of India*, page 313.

1946 in eight provinces is described in the next chapter.

Coupland's Criticism of the Working of Provincial Autonomy— It would have become abundantly clear that the real defect of the Government of India Act from the Indian point of view lay in what it sought to withhold from the people in the shape of the special powers and responsibilities of the Governor in the provincial sphere. This sting was taken away as a result of the gentleman's agreement reached between the Congress and the British Government. The Governors did not use their powers of interference and generally accepted the advice of their popular ministers. In other words, popular or responsible government was realised in the provinces to a great extent. But Professor Coupland, to whose estimation of the achievements of the Congress Ministers reference has been made in preceding section, holds the view that the principles of both provincial autonomy and responsible parliamentary government were violated by the 'unitarian policy of Congress Centre'.* The control exercised by the Congress High Command over Congress ministries in the provinces was a reality ; the refusal of the leaders of the Congress parties to accept office in March 1937 unless the Governors gave an assurance of the type asked for, their willingness to form governments three months later, and their resignation in 1939 on a question not at all connected with the exercise of their powers by the Governors in 1939 : all these are clear proof of the 'unitarian policy of the Congress Centre.' It may also be conceded that this control was far in excess of what is exercised by the national party executive over its parliamentary party by the British Labour Party in Great Britain. But this was necessary in the conditions prevailing in our country ; it was mainly responsible for the success achieved by the Congress Ministries. It was absolutely indispensable for maintaining the inner discipline and integrity of the Congress as a whole and preventing the growth of narrow provincialism. But it was not a negation of provincial autonomy or of parliamentary government. The Congress High Command laid down general policies for the Congress ministries, but left the problem of internal administration to the ministries. To have developed common and uniform policies in the various Congress governed provinces cannot be regarded as a departure from the principles of provincial autonomy and parliamentary government.

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* Coupland: *Ibid,* page 161.

CHAPTER X

The National Movement: 1939-47

Introductory—In Chapter VI we traced the growth of the national movement under the leadership of Mahatma Gandhi from 1919 to 1935, referred to the change of method from constitutional agitation to direct action in the shape of Satyagraha or Civil Disobedience, and also explained how it was that the Congress found it necessary to revert to the Council Front after the fizzling out of the second Civil Disobedience movement which was not initiated by the Congress but was forced upon it by the Government of Lord Willingdon. In the last chapter we gave a brief account of the circumstances under which the Congress found it desirable to give up the role of opposition to the Government, enter upon an absolutely new phase of activity and assume responsibility for administering the affairs of several provinces by accepting ministerial office under the Act of 1935. This interlude of cooperation in its normal programme of waging war against foreign domination was not, however, destined to be long; as has been indicated already, the Congress Ministries tendered their resignations in October 1939 on the war issue after having remained in office for twenty-eight months. How the outbreak of World War II led to their resignations requires a few words of explanation.

Congress Attitude towards War—Even before the World War started in Europe in September 1939, there had been several cases of imperialistic aggression in different parts of the world. There was the active intervention of the Fascists and the Nazis in the civil war in Spain. India sympathised with the Spanish Republican party and condemned the Fascist and Nazi intervention in the civil war. She also condemned the military aggression of Japan in China; and Congress showed its active sympathy with China by sending a medical unit consisting of doctors and necessary equipment and material. These things demonstrate that Congress was opposed to fascism, nazism, and Japanese militarism. It is also interesting to note that Congress had consistently condemned the British policy of appeasing Hitler and Mussolini. On the other side, Congress had also declared its opposition to the participation of India in any

imperialist war, and had specifically demanded that India should not be committed to any war without the consent of her people or their representatives, and that no Indian troops be sent for service abroad without such consent. Inspite of this clear statement, as the shock of war approached England, "the Government of Chamberlain handled India as the Empire had always handled her in the past. In August troops were despatched to Egypt, Aden and Singapore. Secrecy was desirable, and the thing was done, as technically the authorities had a right to do, without vote, debate or sanction from any representatives of the Indian people. A white hand had moved these Indian soldiers like pawns across the chess-board of world politics in a quarrel not their own'.* Steps were also being taken to secure the amendment of the Government of India Act of 1935 so as to concentrate all power in the hands of the Central Government in the event of a war emergency. This was being done without consulting provincial legislatures and ministries, though it meant a great weakening of their powers and a great inroad into the sphere of provincial autonomy. All this was greatly resented by the Indian National Congress. As a protest against the way in which the British Government was treating India it directed its members in the Central Assembly not to attend its next session. Fearing that the old history would be repeated and India would be dragged into the war without the consent of her chosen representatives, the Working Committee passed a resolution in August 1939, a little before war broke out in Europe. In it, on the one side, it affirmed its firm opposition to all types of fascist and nazi aggression and expressed it sympathies with the peoples who stood for freedom and democracy ; and on the other, declared its unwillingness to associate itself with the British Government in any way in the prosecution of the war. It said : 'India cannot associate herself with such a government or be asked to give her resources for democratic freedom which is denied to her and which is likely to be betrayed'.

This attitude stood in sharp contrast to the whole-hearted and spontaneous response made by India to the appeal of the British King in 1914. The manner in which the Governments of Lord Reading and Lord Willingdon had tried to suppress and crush the national struggle for freedom and the way in which the British Government in England had handled the Indian affairs during and

* **Brailsford : *Subject India*, page 45.**

after the Round Table Conference now bore ruit. Not being herself free, nationalist India was not prepared to fight for the freedom of others at the bidding of the masters. Therefore, when Lord Linlithgow made India a belligerent on the side of Great Britain and her allies without consulting her leaders and chosen representatives in the various legislatures, the Working Committee met and passed a long resolution on war crisis on September 14, 1919. In it the Committee condemned the Nazi aggression in Poland and expressed sympathy for its victims. It expressed its eagerness to help in the successful prosecution of the war, if it were convinced that the issue was democracy and a world order based on democracy. If, on the other hand, the war was being fought for imperialist purposes, the Committee declared that it would have absolutely nothing to do with it, and would necessarily oppose any decision imposed upon the country by the Government. By declaring that if 'Great Britain fights for the maintenance and extension of democracy, then she must necessarily end imperialism in her own possessions... A free democratic India will gladly associate herself with other free nations for mutual defence against aggression and for economic cooperation' the resolution made India the crux of the problem. Further, the Committee invited the British Government to declare 'in unequivocal terms what their war aims are in regard to democracy and imperialism and the new order that is envisaged, in particular, how these aims are going to apply to India and to be given effect to in the present'. In short, the Congress asked the British Government to make a clear declaration of India's freedom and adapt this to the existing situation. It also made it plain that mere promises for the future would not satisfy India unless something was done in the immediate present as an earnest that the British Government meant to honour its pledge. The one thing which could convince the Indian people of the sincerity of Government was the establishment of a national government at the Centre.

The Working Committee passed this resolution after anxious deliberation in the expectation that the stress of events would induce British statesman to take a long view and end the feud between England and India and thereby release India's enthusiam for the war. But that was not to be. The British Government avoided stating their war aims plainly and unequivocally. The British Prime Minister declared that for the time being his war aim was self-preservation.

Another cabinet minister said that Britain's war aim was to win the war. In response to India's demand for the establishment of a national government in the country all that the Viceroy did was to invite more than fifty leaders for discussion and sounding public opinion in the country. After these talks he issued a statement in which he repeated the Prime Minister's declaration that England sought no gain for herself out of the war but was engaged in it for establishing a better international system and lasting peace. In regard to the demand for freedom he merely repeated what Lord Irwin had stated several years ago that the establishment of Dominion Status was the goal of British policy in India. He added that in order to help India realise it the British Government would be ready to enter into consultations with the representatives of 'the several communities, parties and interests in India, and with the Indian Princes with a view to receiving their aid and cooperation in the framing of such modifications of the Act of 1935 as may be desirable.' As to immediate action he proposed the establishment of an Advisory Council, representing all India, for the purpose of associating public opinion with the prosecution of the war. This statement was issued on October 17. Needless to say, it failed to satisfy the Congress. Mahatmaji's comment 'there is to be no democracy in India if British can prevent it', is significant of the Congress reaction to it. On October 22, 1939, the Working Committee decided that it could not support the British Government and called upon the Congress Ministries to tender their resignations. The considerations which led the working committee to arrive at this momentous decision may be stated in brief because the gesture was meant for the world at large like the earlier resolution of September 14.

Resignation of Congress Ministries—The Viceroy's statement of October 17 made it clear that the British Government was determined not to part with power at the Centre, and that the cooperation which it sought on the part of India was not the cooperation of comrades and equals but that of a slave people who must do what they are bidden to do by the master. The Indian National Congress could not accept this position without stultifying its whole past. In the second place, the amendment of the Act of 1935 which concentrated the whole power in the hands of the Governor General made the position of provincial ministries very difficult. They had either to submit to continuous interference on the part of the Governor or

come into conflict with him at almost every point. It was suggested by some that the Congress ministries should carry on and invite dismissal by the Governors rather than resign voluntarily. But the Working Committee adopted the more straightforword course of tendering resignations when it became apparent that they could not give effect to popular wishes. The Congress ministries accordingly resigned in eight provinces. The Governors accepted the resignations and did not attempt the formation of minority ministries. The democratic course open to them was to dissolve the legislatures and hold fresh elections. But since they knew it very well that fresh elections would result in greater majorities for the Congress, they avoided the step, and merely suspended the legislatures and assumed all powers of the provincial governments (except those of the High Courts) in their own hands, under section 93 of the Act of 1935. This meant the establishment of one-man rule in the provinces. This change over from responsible government to autocratic rule by the Governor constituted 'a radical and organic change affecting the whole spirit, policy and methods of the entire state organisation'.* It meant not only the suspension of the schemes launched by the Congress ministries and the undoing of their great work of social reconstruction, but what is worse was a reversal to the unchecked autocracy of the old days and an increase in the miseries and sufferings of the people. 'The police felt freer to revert to old habits, knowing well that they would be supported and protected from above even when they misbehaved.'† There was demand that the Congress should not be an idle spectator of the distress of the public, but take some positive action to counter the suppression of the legislatures and of public activity. As time passed and conditions grew worse, the demand for some sort of action became imperative and the Congress at the Ramgarh Session was driven to decide that resort to civil disobedience was the only course left to it. Nevertheless, it avoided launching any movement; it merely asked the people to get ready for it.

Poona Resolution of Conditional Help in War—Meanwhile, there was a sudden and great deterioration in the war situation in Europe. Germany invaded Norway and brought the whole of her western coast under control. She overran Denmark, Holland and

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* Jawahar Lal Nehru : *Ibid,* page 370.

† *Ibid,* page 370

Belgium and launched a severe attack on France. France capitulated and made separate peace with Germany. England herself stood in great and immediate peril. The Working Committee met at Poona for considering the situation, and moved by the fate of these countries and the danger to Great Britain, it passed a resolution on July 7, 1940, offering help to the British Government in the prosecution of the war on the condition that it recognised India's right to complete independence *after the war* and agreed to the setting up of a national government in India composed of all the parties in the country and responsible to the Central Assembly minus its official and nominated non-official members. This was a toned down and moderate demand and required no overhauling of the constitutional machinery. The Governor General, the Commander-in-Chief, and the whole structure of the civil and military administration were to remain as they were; what was demanded was the association of the representatives of the people with the government with a view to the creation of a new spirit and a new outlook among the people which would make it easier for the government to enlist their energies and enthusiasm in the prosecution of the war effort. The passing of such a resolution meant a great concession on the part of the Congress with all its pacifism and belief in non-violence and a break with Mahatma Gandhi. Even the *Statesman* saw nothing dangerous or impracticable in it and opined that its rejection would 'savour of timid and disastrous statesmanship unsuited to the times'. In reply to this offer of cooperation the Viceroy issued a statement on August 8, 1940. This is known as the August Offer. A few words about it are subjoined.

The August Offer—The Viceroy's statement, which was made with the concurrence of the British Government headed by Mr. Churchill, constituted an advance on previous declarations in several respects. In the first place, it renewed the promise of Dominion Status with the highly significant addition that His Majesty's Government 'most readily assent to the setting up after the conclusion of the war, with the least possible delay, of a body of representatives of the principal elements in national life, in order to devise the framework of a new constitution, and they will lend every aid in their power to hasten decisions on all relevant matters to the utmost degree'. It thus promised the establishment of full responsible government on the Dominion model as soon as possible after the

termination of the war in Europe. This was a great advance on the statement of October 17, 1939 which described Diminion Status as the goal of British policy in India. In the second place, it eonceded for the first time that the responsibility for framing their constitution was that of Indians themselves ; it was to be framed by a body of representative Indians drawn from all the principal elements of national life. To a large extent, it amounted to the acceptance of the Indian demand for a Constituent Assembly which had been formally put forth by the Indian National Congress. It is true the Viceroy's statement could also be interpreted as a promise to set another Round Table Conference; that would not have satisfied Congress. It is, however, better to take it in a favourable light. Any way, it had the great merit of virtually abandoning the claim of the British Parliament to determine and control the constitutional advance of India. But the offer was hedged in by two significant provisos. Firstly, British obligations in such matters as defence, treaties with the Princes, rights of the public services, were to be fulfilled. Secondly, the interests of the minorities were to be safeguarded. But the greatest defect of the statement lay in the following words. 'It goes without saying that they (the British Government) could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of government whose authority is directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a government'.

Put in simpler language this great concern for the welfare of minorities like the Muslims signified only one thing ; they were given a veto power over any constitution which Congress might frame. This acquires great significance when one remembers the growing hostility of the Muslim League to the Congress which found expression in the observance of the 'Deliverance Day' when the Congress Ministries resigned in November 1939, and in its demand for Pakistan. In this connection one must never forget the way in which as a result of the unholy alliance between the British die-hards and the minorities in England in 1939 the communal question was pushed into the forefront during the second session of the R. T. C., and made to sidetrack the constitutional issue completely.

As regards the Congress demand for the establishment of a national government in the country responsible to the legislature, the

Viceroy declared that he would enlarge his Executive Council by the inclusion of a number of representative Indians in it, and also, establish a War Advisory Council containing representatives of Indian States and other elements in the national life of the country and meet at regular intervals. He hoped that all parties and communities would join the enlarged Executive Council and the War Advisory Council, cooperate in the war effort and thereby pave the way for the attainment by India of a free and equal partnership in the British Commonwealth. It may be noted that for the first time the viceroy spoke about free and equal partnership of India in the British Commonwealth. This also was an important advance upon previous attitude and ideas.

The Congress Working Committee considered this statement in its meeting held at Wardha from the 18th to the 23rd of August, and inspite of the offer of Dominion Status at the end of war and of the right to determine the new constitution, it decided to reject it as it fell too short of its demand for the transfer of power in the immediate present. The proposal to expand the Executive Council by the inclusion of a few Indians and to establish the War Advisory Council could not be constured as coming anywhere near to the Congress demand for the setting up of a national government responsible to the Assembly. The great concern for the minorities was nothing more than a cloak to use the communal issue as a pretext for withholding the transfer of power to the people. The assertion that his Majesty's Government did not contemplate the transfer of responsibility for the peace and welfare of India to any government whose authority was denied by large and powerful elements in the national life of the country was tantamount to placing in the hands of the Muslim League and the Princes the power of veto over the constitutional advance of the country. It was nothing short of an incitement to the minorities to adopt an intransigent attitude in their dealings with the Congress. The statement and the speeches made in connection with it made it absolutely clear to the Congress that behind all talk of Dominion Status after the war, etc., there was the fixed determination of the British Government to hold on to its control over Indian affairs for as long as possible. Mr. Churchill's declaration that the Atlantic Charter did not apply to India and that he had not become the Prime Minister to preside over the liquidation of the Empire left no room for doubt on this issue. This naturally

led to a widening of the gulf between Great Britain and the Congress. Congress was much pained to see that the Communal question was being made an insuperable obstacle to the constitutional advance of the country.

Individual Civil Disobedience.— The most unsatisfactory nature of the response of the British Government to the Congress offer of help and its determination to cling to power for as long as possible made it impossible for Congress to remain a passive spectator of the deepening crisis in the country. There was no other course open to it but to resort to civil disobedience to enter its emphatic protest against the way in which the freedom of the Indian people was being crushed by the Government. The Congress therefore invited Mahatmaji to lead the movement. As he was too noble to strike the British Government hard when it was engaged in a life-and-death struggle, and merely wanted to register a moral protest against its attitude and draw the attention of the world at large to the right of the Indian people to freedom and their determination to win it, he made the movement of civil disobedience merely symbolic in character. This object was achieved by carefully avoiding all mass upheavels and restricting it to selected individuals only who satisfied certain tests. Mahatmaji himself selected the individuals who were to offer *satyagraha* and the issue on which it was to be done, This was the assertion of the right of every individual to freedom of speech. The honour of initiating individual civil disobedience was conferred upon Acharya Vinoba Bhave. He gave notice to the officials of his intention to address the people and ask them not to help the Government in the prosecution of its war effort in any way. He was arrested and sent to jail after having been allowed to speak a few times. But other individuals were not allowed to address the people and were taken into custody even before leaving their homes. The top-ranking leaders, namely, members of the Working Committee and ex-ministers, were chosen first. The circle was gradually extended by the inclusion of members of central and provincial legislatures, members of provincial, district and town congress committees. It is estimated that in all between twenty-five to thirty thousand men and women were sent to jail for asserting their right to freedom of speech in the midst of the war alleged to having been fought for the sake of freedom. Many people might fail to understand and appreciate this peculiar movement of civil disobedience

where a deliberate attempt was made to avoid embarrassment to the government This was Mahatmaji's way of dealing with the enemy in the midst of a struggle. He did not want to hurt or injure the cause of the allied nations ; his purpose was to make England and the world realize the supreme necessity of making India free not only for her sake but also for their own good. He himself remained out to guide the movement and keep it within limits.

While the symbolic civil disobedience movement was going on in the country, the Viceroy expanded his Executive Council by appointing five Indians to it. It thus came to contain eight Indians out of a total membership of thirteen. The vital departments—Defence, Home and Finance— however remained in the hands of British members. He also set up the War Advisory Council in terms of the announcement of August 8. These steps did not cut much ice with the Congress ; the deadlock between it and the Government continued. There was, however, one significant development. For reasons which remain unknown the Government decided to release Congressmen convicted in connection with the Civil Disobedience movement. They were set at liberty early in December. To some extent the step might have been due to the pressure of Indian members of the Viceroy's expanded Council.

This jail delivery had no effect on Mahatma Gandhi. He said that it did not evoke a single responsive or appreciative chord in him. He criticised the Government for setting at liberty those who deliberately courted imprisonment while refusing to release the detenues and other prisoners who were detained without trial. He therefore did not suspend the individual civil disobedience ; nay, he said that to stop the movement, symbolic though it was, would have been to deny the whole policy of the Congress at a crucial moment. C. Rajagopalachari, however, was of a different view, and favoured the suspension of the movement as political strategy. Mahatmajee wanted the A. I. C. C to decide whether or not to suspend the movement. Pending by it, he advised the released Congressmen not to offer satyagraha immediately after release ; to do so would have been indecent hurry.

Suspension of Civil Desobedience.— A few days after the jail delivery, but long before the A. I. C. C. met to consider the situation, there were developments in the war situation which changed the position fundamentally. Japan entered the war with an attack on

Pearl Harbour on December 7, 1941. The Japanese armies swept across Phillipines, Indonesia, Indo-China and Malaya. By the end of February the fall of Burma looked imminent and an invasion of India highly probable. The failure of the British to stop the Japanese advance in Singapore and Malaya and Burma convinced Indians that they must not depend upon the Government for the defence of the country. Congress therefore suspended the Civil Disobedience movement and advised all Congress to remain at their posts, allay panic among the people and render them all the help they could.

The Cripps Mission and After.— The refusal of the Indian National Congress to support the war effort inspite of its confirmed opposition to Fascism, Nazism and Japanese militarism and its moral protest against the refusal of the British Government to set up in India a national government were not without some effect on public opinion in England, the U. S. A. and elsewhere. There were references to the Indian problem in the British Parliament ; several members urged the Government to treat it as urgent and mobilise the full resources of India by offering her Dominion Status and inviting an Indian representative to sit in the War Cabinet in England. Marshall and Madame Chiang Kai Shek, who paid a visit to India, in February 1942, urged the Government of India in a farewell message to win India's full support in the struggle against Japan. President Roosevelt also exerted some pressure on Mr. Winston Churchill to ease the Indian situation. He said that the Atlantic Charter was applicable to the whole world. Even Dr. Evatt, the Foreign Minister of Australia, urged self-government for India with a view to securing her full support in the war effort. The weight of all these appeals was reinforced by the spectacular success of Japan in South-East Asia, by the fall of Singapore and the serious threat to Burma. There was a great danger of invasion of India herself. All these factors made the British Government realise the necessity of solving the deadlock in India and mobilising all her resources to meet the menace of the Japanese invasion. Accordingly, Mr. Churchill made an announcement in Parliament on March 11, 1942, that the War Cabinet had decided to depute a member of the Cabinet to visit India with the proposals of His Majesty's Government for the solution of the Indian problem. Sir Stafford Cripps was the person chosen for the task of negotiating a settlement with the Congress. He had returned from Moscow after having successfully completed his mission in Russia

and was made a member of the British Cabinet as Lord Privy Seal. He was a socialist and had already visited India twice and was known to be a personal friend of Pt. Jawahar Lal Nehru and other Congress leaders. His appointment was much welcomed in India. He reached Delhi on March 22, and after holding consultations with the Viceroy and members of his Executive Council began talks with leaders of Indian political parties.

The proposals which Sir Stafford Cripps brought with him on behalf of His Majesty's Government were put in the form a Draft Declaration which is reproduced below in full. It ran as under :—

'His Majesty's Government having considered the anxieties expressed in this country and in India as to the fulfilment of promises made in regard to the future of India, have decided to lay down in precise and clear terms the steps which they propose shall be taken for the earliest possible realisation of self-government in India. The object is the creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown but equal to them in every respect, and in no way subordinate in any aspect of its domestic and external affairs.

'His Majesty's Government therefore make the following declaration :

(*a*) Immediately upon the cessation of hostilities, steps shall be taken to set up in India in manner prescribed hereafter an elected body charged with the task of framing a new Constitution for India.

(*b*) Provision shall be made, as set out below, for participation of Indian States in the Constitution-making body.

(*c*) His Majesty's Government undertake to accept and implement forthwith the constitution so farmed subject only to :

(*i*) The right of any province of British India that is not prepared to accept the new constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

With such non-acceding provinces, should they so desire. His Majesty's Government will be prepared to agree upon a new constitution giving them the same full status as the Indian Union and arrived at by a procedure analogous to that here laid down.

(*ii*) The signing of a treaty which shall be negotiated between His Majesty's Government and the Constitution-making Body. This

treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in future its relationship to other member States of the British Commonwealth.

Whether or not an Indian State elects to adhere to the Constitution it will be necessary to negotiate a revision of its treaty arrangements so far as this may be required in the new situation.

(*d*) The Constitution-making Body shall be composed as follows: unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities.

Immediately upon the result being known of provincial elections which will be necessary at the end of hostilities, the entire membership of the lower house of provincial legislatures shall as a single electoral college proceed to the election of the Constitution-making Body by the system of proportional representation. This new body shall be in number about one-tenth of the number of the electoral college.

Indian States shall be invited to appoint representatives in the same proportion as to their total population as in the case of representatives of British India as a whole, and with the same powers as British Indian members.

(*e*) During the critical period which now faces Indian and until the new constitution can be framed His Majesty's Government must inevitably bear the responsibility for and retain the control and direction of the defence of India as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the cooperation of the peoples of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth of the United Nations. They thus will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future of India.'

The proposals brought by Sir Stafford Cripps can be divided into two distinct parts, one dealing with the future and the other

with the present. The proposals dealing with the future were fairly elaborate and definite ; they marked an appreciable advance on the offer of August 8. They virtually conceded what nationalist India had been demanding for the last several years through its mouthpiece, the Indian National Congress. But the other part dealing with the present was vague and did not come anywhere near to what the Congress demanded. It should also be noted that the Cripps proposals conceded to the Muslim League the substance of its demand for Pakistan ; they gave to the provinces of British India the right of keeping eut of the proposed Indian federation and to have a constitution of their own, if they so desired. They also contained a sop to the Indian Princes ; they were free to join or not to join the proposed Union and were given the right to send their representatives to the Constitution-making body without consulting their peoples. The Draft Declaration thus contained 'items palatable to different tastes'. They deserves to be analysed in some detail.

In the first place, in the Draft Declaration His Majesty's Government undertook to set up in India, immediately upon the cessation of hostilities an elected body for framing a new constitution for India. The Congress demand for a Constituent Assembly was thus fully conceded for the first time. In this respect the Cripps proposals were a distinct improvement upon the August Offer whose language was capable of a different interpretation also. It should, however, be admitted that the manner in which this Constitution-making Body was to be set up left much to be desired ; the Congress could not easily accept the proposal to vest the right of choosing the representatives of the States in their rulers. In the second place, the Draft Declaration declared that the new constitution which the Constitution-making Body was to frame was to be on the Dominion and federal bases. It was to bring into existence a new Indian Union which was to be associated with the United Kingdom and the Dominions of the British Empire by a common allegiance to the Crown, but was to be equal to them in every respect and in no way subordinate to Great Britain in any aspect of its domestic or external affairs. This conceded the substance of independence in so far as Dominion Status implies the right of secession from the Empire, and should have satisfied the Congress. No doubt, it did not use the term 'independence' ; the reality, however, was there. In this respect also, the Draft Declaration was an improvement upon the August

Offer. In the third place, it asserted that all matters arising out of the complete transfer of power to the people of India were to be settled by means of a treaty to be negotiated between His Majesty's Government and the Constitution-making Body.

These were important gains which no responsible body could have been expected to throw away. Therefore there must have been some cogent reasons for the rejection of the Cripps offer by the Congress. Let us study them. In the first place, the Congress could never reconcile itself to the proposal that the Indian Princes should *nominate* the delegates to the Constituent Assembly assigned to the States. There was no provision in the scheme for their *election* by the States' subjects. This meant that there would be a solid bloc of about a third of the total strength of the Constituent Assembly which would insist on shaping the new Constitution and as the British vested interests would dictate; *i. e.*, in a very reactionary manner. This solid bloc would have pulled its weight in an anti-national direction at the time of negotiating a treaty with His Majesty's Government for the settlement of necessary matters. It is thus obvious that the proposal to invite the States to nominate their representatives to the Constituent Assembly vitiated the whole scheme; it reduced the value and significance of the right to frame our constitution through a Constituent Assembly to a very large extent. In the second place, by giving the provinces the right to keep out of the Indian Union it minimised the chances of the success of the new constitution. To concede the demand for Pakistan in advance was extremely vicious; it was to make the communal problem still more difficult of solution in the long run. The right of non-accession was given to the states also. 'The states as well as the provinces, would all join in the constitution making, would influence that constitution, and then could walk out of it... Reactionary elements, differing from each other in many ways, would unite to frustrate the evolution of a strong, progressive unified national state'.* The Working Committee very much deplored the encouragement the offer gave to the idea of separation : even though it itself resolved never to compel the people of any territorial unit to remain an integral part of the Indian Union against their declared and established wish.

Important and vital as are the considerations pointed out

* Jawahar Lal Nehru, *Ibid*, page 390.

above, it was not because of them that the Congress rejected the Cripps offer. Had the negotiations it carried on for several days with Sir Stafford Cripps terminated satisfactorily, it would have accepted the offer and co-operated with the British Government in meeting the impending danger of a Japanese invasion inspite of these defects. But it found that the authorities in England and India were not willing or prepared to part with power in any real sense. The Draft Declaration contained the following words : 'During the critical period which now faces India and until the new constitution can be framed, His Majesty's Government must inevitably bear the responsibility for and retain control and direction of the defence of India as part of the world war effort...' Judged by the criterion laid down by the Congress in its resolution passed soon after the declaration of War, namely, that 'the real test of any declaration is its application to the present', the British offer was most inadequate and unacceptable. The Congress position is very clearly and forcefully explained in the following resolution :

'Any proposal concerning the future of India must demand attention and scrutiny, but in to-day's grave crisis it is the present that counts and even the proposals for the future in so far as they affect the present. The Committee necessarily attached the greatest importance to this aspect of the question and on this ultimately depends what advice they should give to those who look to them for guidance. For this the present British War Cabinet's proposals are vague and altogether incomplete, and there appear to be no vital changes in the present structure contemplated. It has been made clear that the defence of India will in any event remain under British control. At any time Defence is a vital subject ; during war-time it is all important and covers almost every sphere of life and administration. To take away Defence from the sphere of responsibility at this stage is to reduce that responsibility to a farce and nullity, and to make it perfectly clear that India is not going to be free in any way and her Government is not going to function as a free and independent Government during the pendency of the war.

'The Committee would repeat that the essential and fundamental pre-requisite for the assumption of responsibility by the Indian people in the present is their realisation as a fact that they are free and are in charge of maintaining and defending their freedom. What is most wanted is the enthusiastic response of the people, which cannot

be evoked without the fullest trust in them and the devolution of responsibility on them in the matter of Defence. It is only thus that even in this grave eleventh hour it may be possible to galvanise the people of India to rise to the height of the occasion. It is manifest that the present Government of India, as well as its Provincial agencies, are lacking in competence and are incapable of shouldering the burden of India's defence. It is only the people of India, through their popular representatives, who may shoulder this burden worthily. But that can only be done by present freedom and full responsibility being cast upon them. The Committee are, therefore, unable to accept the proposals put forward on behalf of the British War Cabinet.'

This was a reasonable and just position to take. The Congress could ask the people of India to shed their blood in the defence of their real and present freedom with hopes of an enthusiastic response; its call for fight in defence of a freedom not yet theirs would have fallen on deaf ears. It is only mercenaries who can fight for the freedom of others; it is only free people who can carry on a people's war. This psychology the British Government did not understand; perhaps, they intentionally refused to do so. The Delhi talks thus broke down, not on any communal question as Sir Stafford Cripps later on asserted, but on the question of Defence. The Congress demanded control over Defence on the plea that the war could be fought and won only on a popular basis. The British Government, however, did not trust the people; even in the hour of dire necessity it did not agree to arm the people whom it had emasculated for generations.

Another question besides that of Defence on which the Delhi talks between the Congress and Sir Stafford Cripps broke down was that of the status of the Indian leaders if they joined the Viceroy's Executive Council. Were they, as members, to be responsible to the Viceroy and the Secretary of State as hitherto, or to the elected representatives of the people in the legislature? The Congress demand was that the Governor-General should become something like the constitutional head of the State, bound to accept the advice of his Council, and without the power of over-riding its decisions in any way. In short, the Congress wanted that the Council should be treated as a Cabinet. To this, however, the Government was not agreeable; the authorities in England and India

were never prepared to concede power to any National Government. So the talks broke down, and His Majesty's Government withdrew the offer. It may also be pointed out that the attitude of the British Government that the Cripps proposals were not open to amendment but were to be accepted or rejected as a whole was most unfortunate. It was also partially responsible for the failure of the negotiations.

The Cripps proposals were rejected not only by the Congress but also by every other party in India. Their grounds for rejecting them were mostly the same. The Muslim League rejected them because it thought that the freedom they gave to the provinces to stand out of the union was neither clear nor full to the extent demanded by it. It was suggested in certain quarters that the real cause of their rejection by the Congress was the uncompromising attitude of Gandhiji towards them. He had described the proposals as 'a post-dated cheque', to which some one else added the words 'on a failing bank'. That it was a post-dated cheque was certainly a fact; that was its main shortcoming. But Gandhiji was not present during the subsequent negotiations and the Working Committee arrived at the decision to reject the scheme independently of him.

Another vital fact must be remembered in connection with the breakdown of the negotiations between Sir Stafford Cripps and the Congress. The breakdown came very suddenly, and at a time when the atmosphere was charged with a fair degree of optimism and nobody thought that the negotiations were about to fail. Here at home the Working Committee was busy considering the formula suggested by Col. Johnson of the U. S. A.; while in the U. S. A. Lord Halifax, the British Ambassador in that country and an ex-Governor General of India, made a speech strongly criticising the Congress. He said : 'If our best efforts fail the British Government would find itself obliged to do its own duty without the assistance or cooperation of the larger organised Indian parties. We have had no cooperation from the Indian National Congress, the largest and best organised political party in India'. He added that its claim to speak for the whole of India was hotly denied by other bodies of India. The significant thing is that whereas in India there was an atmosphere of hope and optimism, Lord Halifax talked of the failure of the Cripps Mission in America. There was a sudden

change in the attitude of Sir Stafford Cripps three days after the speech of Lord Halifax. He wrote a sharp and recriminating letter to the Congress President on April 10, accusing Congress of the desire to dominate the minorities. This was far from the truth. It is also worth remembering that, though in the course of his first interview with the Congress President, Maulana Abul Kalam Azad, Sir Stafford had said that the relation of the Viceroy to the new national government to be formed in India would be the same as that of the British King to the British Cabinet, he recanted on the last day, seemingly under pressure from London. 'In Delhi it was well known that the Viceroy, Lord Linlithgow, and the high officials of the Civil Service were strongly opposed to a settlement and to a lessening of their powers. Much happened which was only vaguely known'.* It seems that His Majesty's Government presided over by Mr. Churchill did not send Sir Stafford Cripps to India with an honest and earnest desire to solve the deadlock; the 'real thought was less the achievement of Indian freedom than of a *coup de main* in the propagandist art among our allies who contrasted American relations with the Phillippines against British relations with India.'†
page 331.
Pandit Jawahar Lal also thought that the Cripps mission was nothing more than a propaganda stunt for American consumption. The speech delivered by Lord Halifax on April 7 referred to above lends support to the hypothesis.

The Aftermath.—The abrupt way in which Sir Stafford Cripps announced the breakdown of the negotiations, the speeches which he delivered after return to London and the untruths and half-truths which he piled up in explaining the failure of his mission not only redounded to his personal discredit, they also led to a worsening of the political situation in the country. Indians became more convinced than ever before that Great Britain did not want to part with power at all and that there could be no amicable settlement with her. The sense of frustration grew rapidly. Meanwhile, the chances of a Japanese invasion were growing and there was a long line of starving Indian refugees pouring into the country from Burma with their tales of misery and woe. There was panic in Eastern Bengal where the Government contributed to the sorry plight of the people

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**Discovery of India :* page 396.

†H. Laski, quoted in *History of the Indian National Congress,* Volume II,

by destroying thousands of country-made river boats by means of which lakhs of people made their living and which were a principal means of transport in the provinee. Congress wanted to organise the people for self-defence against the impending Japanese invasion, but was not encouraged to do so. The Government wanted to treat the people in the old way as mere chattels who were to be allowed no initiative but were expected to carry out the wishes of the officers. Official policy in the whole of the country was directed to the suppression of normal political activities and to the tightening of official pressure. A number of prominent Congressmen were sent to jail. What to do under the circumstances became a vital question for the Congress. The A. I. C. C. met towards the end of April at Allahabad and expressed its deep resentment at the way Government was dealing with India and asserted that it would never accept a position which involved 'our functioning as slaves of foreign authority.' It may be mentioned that at this meeting Shri C. Rajagopalachari proposed that the Muslim League demand for Pakistan be accepted in order to establish a united front which the British would be unable to resist. This proposal was rejected and this led to his withdrawal from the Congress shortly after.

At this stage when the country was feeling frustrated and despearte, Gandhiji wrote a number of articles in the Harijan which 'gave a new direction to people's thoughts, or as often happens, gave shape to their vague ideas. Inaction at that critical stage and submission to all that was happening had become intolerable to him. The only way to meet that situation was for Indian freedom to be recognised and for a free India* to meet agression and invasion in cooperation with the allied nations. If this recognition was not forthcoming then some action must be taken to challenge the existing system and wake up the people from the lethargy that was paralysing them and making them easy prey to every kind of aggression.' Gandhiji felt that inaction at that time and weak-kneed submission to the ways of the authorities would delay the advent of national freedom for a long time. He was therefore intent upon devising some plan by which the deadlock in the country could be solved. In this way he gave birth to the Quit India idea. He was convinced that the British possession of India was the incentive for the threatened Japanese invasion, and he therefore asked every Briton to

*Jawahar Lal Nehru. op. ct. Page 505.

support his appeal to Britain to quit India not only in the interests of India but also in those of Great Britain and the world at large. He even went to the length of declaring that a free India would throw all her vast resources into the war and cooperate fully with the United Nations in the defence of India with all the armed forces at her disposal. He would not even object to the presence of British and American troops in India for purposes of defence. He clung to the brief that a settlement with Great Britain was possible and thought of seeking an interview with the Viceroy for an amicable settlement of the problem. It is also true that he openly talked of action and even of revolt in case there was no voluntary abdication of power on the part of Great Britain. But he nowhere described the nature of the action contemplated by him. The difficulty in regard to any action that the Congress might resort to was that, on the one side, it did not want to embarrass the Government by any mass upheavals, and on the other, it realised the futility of a merely symbolic civil disobedince movement.

But Mahatamaji was convinced that submission to the ways of the Government would lead to complete demoralisation of the people and their losing all the strength they had gathered during the preceding twenty and thirty years He was therefore prepared for direct action on the part of the people, even if it had an adverse effect on the prosecution of the war effort. For four long months he thought loudly and gave expression to his views in the *Harijan* and in interviews to press correspondents. The Government, however, sat tight and adopted the do-nothing policy, and perfected its machinery to attack and crush Congress if it indulged in any direct action.

The A. I. C. C. met at Bombay on the 7th and 8th of August 1942, to consider and debate the Quit India resolution, which had been prepared by the Working Committee in its meeting at Wardha in July, and adopted it. It is a long and reasoned argument in favour of the immediate recognition of the freedom of India and the ending of British rule in the country which it described as 'an urgent necessity, both for the sake of India and for the success of the cause of the United Nations.' It said that the continuation of the British rule was degrading and enfeebling the country and making her progressively less capable of defending herself and of contributing to the cause of world freedom. India in bondage was the symbol of

British imperialism and the taint of that imperialism was bound to affect the fortunes of the war. The resolution asserted that the 'peril of to-day necessitates the independence of India and the end of British domination. No future promises or guarantees can affect, the present situation or meet that peril. They cannot produce the needed psychological effect on the mind of the masses. Only the glow of freedom now can release that energy and enthusiasm of millions of people which will immediately transform the nature of the war.'

The Resolution further affirmed that the Congress was anxious not to embarrass in any way the defence of China or Russia, 'whose freedom is precious and must be preserved, or to jeopardise the defensive capacity of the United Nations. But the peril grows both to India and these nations, and inaction and submission to a foreign administration at this stage is not only degrading India and reducing her capacity to defend herself and resist aggression, but is no answer to that growing peril and is no service to the peoples of the United Nations.' The A. I. C. C. felt no longer justified in holding the nation back from endeavouring to assert its will against an imperialist and authoritarian government, and therefore resolved to sanction the starting of a mass struggle on non-violent lines on the widest scale.' After the resolution was put to vote and carried, Mahatamaji addressed the house for about 70 minutes. He spoke 'like a prophet in a moment of inspiration, full of fire, purifying by its flames......... full of the spirit Divine', and exhorted the nation to Do or Die.

The Upheavel of 1942—It should be observed that the A.I.C.C. did not actually start the civil disobedience movement ; it merely passed a resolution sanctioning it in case the Government failed to take steps to satisfy the national demand, and entrusted its command to Gandhiji. In an interview before the meeting Mahatama Gandhi said that he 'contemplated an interval between the passing of the resolution and the starting of the struggle.' A letter was to go to the Viceroy with a view to exploring the chances of a peaceful settlement of the problem. There was also the idea of drawing the attention of the chiefs of the principal members of the United Nations to the problem and seeking their good offices ,in its solution. The Government, however, thought otherwise : it did not want that the definite and explicit anti-fascist attitude of the Congress should be made fully known to the United Nations ; perhaps it did not believe in the

sincerity of Congress. Thinking that the Congress aimed at a widespread subversive movement, it decided to act firmly and act quickly. It took the initiative and started a most intense and widespread repression of Indian patriotism. It arrested Mahatama Gandhi and the members of the Working Committee in the early hours of the morning of August 9 and sent them to unknown destinations. Rounding up of provincial and local leaders followed throughout the country. The masses did not know what to do ; the leaders had given no directions as to the manner in which the movement was to be conducted. There were natural demonstrations, meetings, processions and hartals ; but they were suppressed with a stern hand. Meetings were broken up and sometimes fired upon. Since the usual channels through which the public could give expression to its feelings were all blocked, the suppressed emotions of the masses found expression in an orgy of violence. They began to tear up railway lines, cut down telegraph and telephone wires, and set fire to government buildings. Railway service was dislocated in several parts and some areas were isolated from the rest of the country. There were strikes on the part of labour in many important centres like Jamshedpur, Ahmedabad and Bombay. The Indian Communists played a most dishonourable and treacherous part in the struggle ; instead of helping in fomenting strikes they sided with the Government and sabotaged the national movement by keeping away the workers under their influence from striking. They advocated the withdrawal of the Quit India resolution, and supported Mr. Jinnah's demand for Pakistan. The mass upheaval was more violent and intense in some parts than in others ; at some places British authority ceased to exist and the people established a parallel government of their own ; *e. g.*, in Ballia and Basti in the U. P., in Satara in the Bombay Presidency and Midanapore in Bengal. Such areas had to be *reconquered* with the help of the military, and in consequence the people there were subjected to unspeakable horrors and most barbarous and brutal treatment. These spontaneous reactions to the unprovoked and sudden arrests of the leaders proved that the masses were being goaded by an inner urge for freedom and were determined to put an end to foreign rule. It appeared as if the country was in open revolt against the foreign government. But an unarmed and leaderless mob could be no match to the 'leonine' violence of a powerful and organised government having almost unlimited military

resources at its disposal. The external manifestations of the spirit became less frequent as time passed, and the movement went underground under the leadership of socialist leaders like Shri Jai Prakash Narayan who escaped from the Hazaribag jail but was rearrested after some time under dramatic circumstances near Lahore. The severity of the measures adopted by the Government to quell the rebellion can be measured by the fact that according to official information the leadersless mob had to face police and military firing on 538 occasions, and were also machinegunned from low-flying aircrafts in some cases. Heavy collective fines were imposed upon recalcitrant villages and the fines were realised by all means open to the authorities. It is estimated that about 1000 persons lost their lives as the result of police and military firing and fines to the tune of ninety lakhs of rupees were imposed. It is hardly necessary to narrate the numerous acts of heroism and patriotism performed by the people or to describe the sufferings and privations they had to undergo during those terrible days.

Mahatmaji's Fast.—The way in which the British Government rejected the Congress offer of conditional co-operation in the war effort every time it was made showed that they did not desire any settlement of the Indian problem. They knew it well that once the Indian leaders were given an opportunity to rouse the spirit of resistance against the fascist invader, it would mean the beginning of the end of British domination over India; they therefore never favoured the establishment of a national government; rather they tried their best to prevent its formation. But they found it necessary to justify their conduct before their allies; particularly, the highly repressive measures adopted to suppress the upheaval of 1942. They could do so only by dubbing Gandhiji and the Congress as pro-axis and throwing the responsibility for violence upon them. They blacked-out the truth about India and carried on an intense propaganda fastening the entire responsibility for the 1942 disturbances upon Gandhiji and the Congress. They claimed to be in posesssion of evidence which showed that while Congress talked of a peaceful settlement of the problem, it had no genuine desire for it; that while Congressmen had non-violence on their lips, they were actually planning in secret violent subversive activities on a national scale. In other words, the Government not only held Gandhiji and the Working Committee responsible for the violence on the part of the

masses and the repressive measures they had to take, they also charged the latter with duplicity, dishonesty and immorality. Mahatmaji protested against such baseless accusations and demanded an opportunity to refute them. He asked the Government to try him and the members of the Working Committee on the charge of having fostered and abetted violence, and thereby afford them an opportunity to prove their innocence. He also asked for facilities to go over the whole question in consultation with the members of the Working Committee. His position can be summed up in his own words : '(*i*) If you want me to act singly, convince me that I was wrong and I will make ample amends. (*ii*) If you want me to make any proposals on behalf of the Congress, you should put me among the Congress Working Committee members. I do plead with you to make up your mind to end the impasse.'

The Government turned a deaf ear to all the protests of Mahatmaji. They neither made public the evidence on the basis of which they charged the Congress with duplicity, etc , nor afforded any opportunity to Mahatmaji to refute the charges brought against him and the Working Committee. They also did not withdraw the charges. The replies to the letters of Gandhiji were most evasive. The cup of Mahatmaji's patience was full, and he decided to go on a 21 days' fast according to capacity as a protest against what he called the 'leonine violence' of the Government and in order to demonstrate his own innocence before God.

The fast commenced on February 19, 1943. It caused great consternation in the country, and, whatever trace of violence there was on the side of the people, that too subsided. During the fast his condition became critical several times, and his death was feared. There was a country-wide agitation for his release. A non-party conference met at Delhi and urged upon the Government to release him. Mr. Jinnah and the Muslim League alone did not join in this appeal. It had no impression upon Lord Linlithgow and Mr. Churchill. They refused to release him unless he withdrew the Quit India resolution and showed repentance for his conduct. As a protest against this callousness three members of the Viceroy's Executive Council, Shri Homi Modi, M. S. Aney, and N. R. Sarkar resigned their seats. Even this had no effect upon the Government.

But despite his old age and great physical weakness, and despite the fact that many a time the physicians who attended upon

him regarded his passing away a question of hours, Mahatmaji passed through the crisis and completed his fast successfully and thereby baffled medical science. The fast did not ease the political situation in the country in any way. It may be mentioned here in passing that during his detention in the Aga Khan Palace Mahatmaji suffered two great bereavements in the demise of his trusted and able private secretary, Mahadev Desai, and his devoted wife, Kasturba Gandhi.

Mahatmaji's Release and After.—Mahatma Gandhi fell ill in April 1944 and his condition became serious. Rather than let him die as a prisoner, Lord Wavell who had succeeded Lord Linlithgow as the Governor General in October 1943 released him in May 1944. It is possible that the success of Netaji Subhas Chandra Bose in organising the Indian National Army in Malaya and its invasion of India in April 1944 had something to do with the release of Mahatmaji. Shri Subhas Chandra Bose had escaped from detention in his home in January 1941, and after spending some time in Afganistan, Italy and Germany arrived in Japan, and with Japanese help set up the Indian National Army to fight the British and free the country from their domination. The Indian National Army had some initial success, but later on had to surrender. Netaji is reported to have died as a result of the crashing of the plane in which he was travelling.

After his release Mahatma Gandhi continued his efforts to secure a settlement with the Government and thus resolve the deadlock in the country. In his letters to Lord Wavell he sought to assure him that however much he and the Working Committee might criticise the British Government and Administration, they were sincere friends of the British, and pleaded that if only the British Government could develop trust in them, they would be found to be the greatest helpers in the fight against Nazism, Japanese militarism, *etc.* In reply the Governor General insisted on the withdrawal of the Quit India demand and the abandonment of the policy on non-cooperation on the part of the Congress as a condition precedent to the starting of negotiations with the latter. Even if he were so-minded, Mahatma Gandhi could take no steps to suspend the movement without first consulting the members of the Congress Working Committe who were in detention in the Ahmednagar Fort. He was denied permission to contact them.

His efforts were thus fruitless, and the deadlock continued.

C. R. Formula.—While on the one side after his release Mahatmaji entered into correspondence with Lord Wavell with a view to the easing of the political situation, on the other side Shri C. Rajagopalachari began a move for a settlement with the Muslim League. He proposed a formula to which Mahatmaji gave his consent. According to it the Muslim League was to endorse the Indian demand for independence and to cooperate with the Congress in the formation of a Provisional Interim Government for the transitional period subject to the terms given below :

'After the termination of the war a Commission shall be appointed for demarcating contiguous districts in the north-west and east of India wherein the Muslim population is in absolute majority. In the areas thus demarcated a plebiscite of all the inhabitants, held on the basis of adult franchise or other practicable franchise, shall ultimately decide the issue of separation from Hindustan. If the majority decides in favour of a Sovereign State separate from Hindustan, such a decision shall be given effect to, without prejudice to the right of the districts on the border to choose to join on either state.' 'In the event of separation, a mutual agreement shall be entered for safeguarding defence, communications and other essential purposes. Any transfer of population shall be on an absolutely voluntary basis. These terms shall be binding only in case of transfer by Britain of full power and responsibility for the governance of India.'*

This means that Mahatmaji consented to the establishment of Pakistan *after* the achievement of independence by India and only after a plebiscite in the Muslim majority areas in which all the adult inhabitants were to participate. Mr. Jinnah did not accept the proposals. He wanted the whole of the Punjab, Bengal and Assam along with N. W. F., Sind and Baluchistan and without any sort of plebiscite. Mahatmaji met Mr. Jinnah several times at the residence of the latter to arrive at an understanding with him on the Hindu-Muslim question. The attempt proved abortive.

The Phillips Episode—A few words may be added about what may be described as the Phillips episode which illustrates the attitude of Mr. Churchill and of the Indian Government towards the settlement of the deadlock in the country and throws a flood of light on

* History of Congress, Vol. II, page 633.

the failure of the Cripps Mission and also of the Wavell plan. Mr. Phillips was the personal representative of President Roosevelt in India ; he had Mr. Churchill's authority to go wherever he liked and interview whomsoever he pleased. He wanted to see Mahatmaji and the Working Committee members in jail in February 1943. He had a scheme for the solution of the Indian problem and wanted to obtain Gandhiji's assent before pressing the British Government through President Roosevelt to accept it. The Government of India did not allow him to interview either Gandhiji or the members of the Working Committee. When at a later date he met Mr. Churchill in Washington, the British Prime Minister was very rude to him and said that India was England's business and that he would not tolerate American interference in the matter. This episode shows very clearly that neither the Viceroy nor Mr. Churchill was in the least anxious to solve the Indian deadlock ; they were quite content to keep it up for as long as possible. Mr. Churchill did not want 'to preside over the liquidation of the British Empire.'

The Wavell Plan and the Simla Conference—Although soon after his arrival in India in October 1943, Lord Wavell had spoken of the mysterious things he had brought in his mental bag from England and people expected him to act quickly to solve the political tangle, he said nothing as to the way in which he proposed to proceed in the matter and took no step whatever, except releasing Mahatma Gandhi in May 1944. He made a move in the matter only after his return from London where he had been called by Mr. Churchill for consultation in regard to the Indian question. A few words about the reasons for his trip to London seem to be necessary.

The war in Europe had ended in a complete victory for the Allies in 1945, and general elections were due in Great Britain. Some Labour M. P.'s had been persistently criticising the policy adopted by Mr. Churchill towards India, and one Labour member of the House of Lords took the unprecedented step of introducing a bill in Parliament advocating the application of the Statute of Westminister to India. Of course, the House of Lords did not grant permission to introduce it. Otherwise also the Labour party advocated a reconstitution of the Empire on the, basis of freedom and fellowship as a part of its election campaign. All this made Mr. Churchill uneasy. He was afraid lest there should be a swing of public opinion towards the Labour party. He therefore thought it necessary

to take some steps which would take the wind out of the sails of the Labour party and prove to the electorate that he wanted to solve the Indian question. Accordingly, he invited Lord Wavell to London for consultation. Lord Wavell left India on March 21, and returned on June 4, 1945. On June 14 he made a broadcast speech in which he outlined the Government proposals for ending the political deadlock, and advancing the country towards the goal of self-government. Mr. Amery made a similar statement in the House of Commons.

This dual purpose of solving the deadlock and advancing the country towards self-government was to be achieved by reconstituting the Viceroy's Executive Council. The Council was to be made entirely Indian in its composition except for the presence of the Governor General who was to be its President and the Commander-in-Chief who was to retain his position as the War Member. It was to include representatives of the main communities and to have an equal number of Caste Hindu and Muslim representatives. For the purpose of obtaining from the leaders of various parties a joint list, or if this be not feasible, separate lists of men of ability and character who would be prepared to take decision and responsibility of administration of all the portfolios including External Affairs, except the conduct of war which was the charge of the Commander-in-Chief, the Viceroy was to convene a conference of the leaders of the various parties in the country. The Viceroy also added that the Viceroy's veto could not be eliminated, but assured that it was not to be used unreasonably. The Secretary of State was to intervene only in the interests of India and not in those of Great Britain. This implied that the Executive Council was to approximate to an interim National Government. The proposed plan of constituting the Executive Council was not to prejudge the form of the future constitution or constitutions of India. In order to enable the members of the Working Committee to participate in the consultations the Government released them from detention on the 16th of January. The statement and the release of the members of the Working Committee constituted the first steps towards the solution of the deadlock in the country. High hopes were raised on all sides.

The Congress accepted the invitation to attend the Simla Conference, and so did the Muslim League, the Sikhs, the Scheduled Classes, and the European group in the Assembly. The Conference

opened at Simla on June 25, 1945, under the presidentship of Lord Wavell to discuss the proposals of His Majesty's Government which, as has been stated above, were designed to resolve the political deadlock and advance India towards the goal of full self-government. After meeting for the first two days it adjourned for a short time, and then again adjourned for more than a fortnight. When it reassembled on July 14, the Viceroy announced the failure of the Conference to reach any agreed conclusion about the formation of the new Executive Council. In the course of the statement he made before it on the last day he said : 'My original intention was that the Conference should agree upon the strength and composition of the proposed Executive Council, and that thereafter parties should send me lists of names. To these lists I would, if necessary, have added names of my own, and attempted to form on paper an Executive Council which might be acceptable to His Majesty's Government, myself, and the Conference. I intended to discuss my selections with the leaders and finally to put them to the Conference. Unfortunately, the Conference was unable to agree about the strength and composition of the Executive Council, and on June 29, I undertook, with the approval of the Conference, to endeavour to produce a solution not based on any formula agreed upon in advance. I asked the parties to let me have lists of names, and said I would do what I could to produce a solution acceptable to the leaders and to the Conference. I received lists from all parties represented here except the European group who decided not to send a list, and the Muslim League. I was however determined that the Conference should not fail...... I therefore made my provisional selections, including certain Muslim League names......

'I did not find it possible to accept the claims of any party in full. When I explained my solution to Mr. Jinnah, he told me that it was not acceptable to the Muslim League, and he was so decided that I felt it would be useless to continue the discussion.........'

Causes of the Failure of the Simla Conference—The Simla Conference thus failed. It would not be out of place here to examine the causes of its failure. In the first place, it is worth nothing that it did not fail because the proposals of His Majesty's Government did not transfer enough power to the representatives of the people or that they failed to satisfy the minimum demands of the people. Gandhiji was satisfied that the Wavell plan was conceived in the

right spirit and saw in it the seeds of independence. In the second place, Congress cannot be charged with responsibility for its failure. It failed because the demands of Mr. Jinnah were not acceptable to the Congress, Jamiat-ul-Ulema, Nationalist Muslims and to Malik Khizr Hayat Khan. The Governor-General was not prepared to have an interim settlement without the co-operation and consent of the Muslim League. This attitude of the Viceroy amounted to placing a veto over the political progress in the country in the hands of the Muslim League, and Mr. Jinnah made the fullest use of this power. It was the belief of many a man at that time that the Wavell plan was merely an election stunt of Mr. Churchill, and the Government were using Mr. Jinnah as a cloak for retaining power in their hands ; otherwise there is no reason why he and the Muslim League should not have been by-passed on account of the unreasonable character of their demands. The alliance between the Europeans and the Muslims entered into on the occasion of the Second R. T. C. had not been abrogated till then. Nor could Mr. Churchill be expected to change his views about and attitude towards India so quickly and agree to the transfer of power to the people. The following extract from Dr. Sitaramayya's *History of the Indian National Congress* would be read with interest in this connection. He writes as follows :— "Three years back in April 1942, it was the Congress that broke the Cripps Mission, if it was not Cripps himself who broke his own. In Simla it was the League that broke the Wavell Plan although Lord Wavell took the blame on himself. Exactly what happened in Delhi with Cripps happened in Simla too with Wavell. The Viceroy assured him, said Maulana Abul Kalam Azad......'in his first interview that no party to the Conference would be allowed to obstruct settlement out of willfulness. Everyone knew what Mr. Jinnah would do and everyone believed that against that possibility the Viceroy had armed himself with authority to deal with him appropriately'. Yet Wavell's hand was stayed at the last moment even as Cripps' was". It is also interesting to see that the Wavell Conference came to an end soon after the elections were over in England.

The reasons why the demands of Mr. Jinnah were not acceptable to the Congress were described in the statement made before the Congress by Maulana Abul Kalam Azad, the President of the Congress at that time. He said that the Muslim League claimed the

sole right to nominate all the Muslim representatives on the new Executive Council. That claim was untenable and unsustainable ; the Congress could not accept the position. The Congress was not a Hindu body. It could not wipe off its history of fifty years. As a Muslim, he could not tolerate the Congress becoming a purely Hindu body. The Congress had a right to claim a share for the welfare and responsibilities of the Muslims. Malik Khizr Hayat Khan Tiwana, Premier of the Punjab, agreed with Maulana Azad and held that the Muslim League could not be given the sole right of nominating the Muslim members of the Executive Council. That would have amounted to a disenfranchisement of the non-League Muslims. A similar view was held by Muslim elements outside the League. In this connection it should be recalled that the most important ground on which the attempts made in the past by the Congress to arrive at a settlement of the Hindu-Muslim question failed was the inability of the Congress to accept the demand of Mr. Jinnah that the Congress should first recognise the League as the sole representative of the Indian Muslims. To have accepted that contention would have involved the abandonment by the Congress of its objective of a single indivisible India and also of its own character as a *national* organisation. On the other hand, the insistence of the League on that claim was indispensable for the success of its Pakistan objective. The immediate cause of the failure of the Simla Conference was merely a symptom of the deeper and irreconcilable opposition between the Muslim League demand for Pakistan and the Congress conception of an indivisible India. In the final analysis, blame for its failure must be laid at the door of the British Government. Its representative failed to act justly and firmly. If it be true, as was thought by many, that the Simla Conference was due to Russian pressure even as the Cripps Mission was due to American, its failure should cause little surprise,

Even though the Simla Conference failed, it was not wholly barren of results. It clearly demonstrated, on the one side, the willingness and readiness of the Congress to shoulder the responsibility of administration provided there was real transfer of power to the people. With a view to enabling them to participate in the Conference the Government had released the members of the Working Committee. This was the first and indispensable step in the solution of the deadlock in the country. It had another effect also which

deserves to be noted. The suppression of the 1942 struggle had left the country in a mood of despair and with a sense of frustration. The speeches made by Pandit Jawahar Lal Nehru and Sardar Patel after the Simla Conference and the lifting of the ban on the Congress went a long way in removing that feeling of frustration.* They told the people that there was nothing to be ashamed of for what had been done by the leaderless people in any angry mood. Though there had been some departure from the strict path of non-violence, the heroism displayed by the people in resisting the Government's repression of their urge for freedom was praiseworthy. Lest such talks should be misunderstood by the people as suggesting an abandonment of the policy of non-violence which had been the sheet anchor of the Congress policy since 1920, the Working Committee passed a resolution in December 1945 of which the following was a part : 'If many acts of heroism and sacrifice are to their credit, there were acts done which could not be included in non-violence.' For the guidance of the people the Working Committee confirmed that 'non-violence does not include the burning of public property, the cutting of telegraph wires, the derailing of trains and intimidation.'

After the Simla Conference— With the object of reviewing the situation in the country and deciding what the next step should be for the removal of the deadlock and the restoration of normal political life, Lord Wavell called a conference of the Provincial Governors on the 1st and 2nd of August, 1945. It was believed that the questions of restoration of provincial autonomy in provinces governed under Section 93, and the holding of general elections were discussed in the meeting. The Viceroy decided to hold general elections. Meanwhile, conditions became quite different in Great Britain. As a result of the general elections held there after the unconditional surrender of Germany, the Labour Party came into power. Mr. Churchill and Mr. Amery who were consistently opposed to the transfer of power to the people of India made way for Mr. Attlee and Lord Pethic Lawrence as the Prime Minister and the Secretary of State for India respectively. The new Labour Government called Lord Wavell to England for holding fresh discussions and reviewing the whole field of the problems with which India was

* The story of the Azad Hind Fauj, organised by Netaji Shri Subhas Chandra Bose, and the trial of its Commanders in the historic Red Fort of Delhi also contributed a good deal to the renewal of spirit in the country.

concerned. On his return from London Lord Wavell broadcast a message on September 19 in the course of which he said : 'His Majesty's Government are determined to do their utmost to promote in conjunction with the leaders of Indian opinion the early realisation of full Self-government in India. During my visit to London they have discussed with me the steps to be taken. An announcement has already been made that elections to the Central and Provincial Legislatures, so long postponed owing to war, are to be held during the coming cold weather. Therefore His Majesty's Government earnestly hope that ministerial responsibility will be accepted by political leaders in all provinces. It is also the intention of His Majesty's Government to convene as soon as possible a constitution-making body, and as a preliminary step, they have authorised me to undertake, immediately after the elections, discussion with the representatives of the Legislative Assemblies in the Provinces, to ascertain whether the proposals contained in the 1942 Declaration are acceptable, or whether some alternative or modified scheme is prefereable. Discussions will be undertaken with the representatives of the Indian States with a view to ascertaining in what way they can best take their part in the constitution-making body...' Prime Minister Attlee also broadcast a similar message from London on the same date.

The A. I. C. C. met towards the end of September and considered the proposals put forward by the Governor General. It found them 'vague, indefinite and unsatisfactory', and reiterated that 'nothing short of independence can be acceptable to the Congress and the country'. It, however, decided to contest the general elections to the Central and Provincial legislatures, even though the franchise was very much restricted and inspite of the various handicaps under which the Congress was working.

The Congress Manifesto.— The Congress issued a long election Manifesto in which it described in a nutshell its past history and achievements and future programme, and appealed to 'the voters all over the country to support the Congress candidates in every way at the forthcoming elections and to stand by the Congress at this critical juncture, which is so pregnant with future possibilities. In these elections petty issues do not count, nor do individual, nor sectarian cries,— only one thing counts; the freedom and independence of our Motherland, from which all other freedoms will flow to our

people.' The famous resolution of August 8, 1942, was made the central point of the Manifesto. *'By its demand and challenge the Congress stands to-day. It is on the basis of this resolution and with its battle-cry that the Congress faces the election"*

The Manifesto is too long to be reproduced in full and too important to be left out completely. Therefore some vital passages from it are given below.

'For sixty years the National Congress has laboured for the freedom of India... .. From small beginnings it has progressively grown and spread in this vast country carrying the message of freedom to the masses. From these masses it has gained power and strength and developed into a mighty organisation, the living and vibrant symbol of India's will to freedom and independence.

'The career of the Congress has been one of both constructive effort for the good of the people and of unceasing struggle to gain freedom. After the recent three years of an unprecedented mass unpheaval and its cruel and ruthless suppression, the Congress has risen stronger than ever and become more loved by the people by whom it has stood through storm and stress.

'The Congress has stood for equal rights and opportunities for every citizen of India, man or woman,...... for the unity of all communities and religious groups and for tolerance and good-will between them,...... for the freedom of each group and territorial area within the nation,......... for the rights of all those who suffer from social tyranny and injustice... ...

'The Congress has envisaged a free, democratic State with the fundamental rights and liberties of all its citizens guaranteed in the constitution. This constitution should be a federal one, with autonomy for its constituent units, and its legislative organs elected under universal adult franchise... ...

'The State shall provide all necessary safeguards for the protection and development of the backwards or suppressed elements in the population........ The State will help in the development of the tribal areas......

'......Foreign rule has produced numerous vital problems that demand immediate solution...... There is no way to solving any of these urgent problems except through freedom and independence. The content of political freedom must be both economic and social.

'The most vital and urgent of India's problems is how to

remove the curse of poverty and raise the standard of the masses...... Poverty is essentially a rural problem......... It is essential that the problem of land should be dealt with in all its aspects......... The reform of land system involves the removal of intermediaries between the peasant and the State. In the development of land and industry there has to be a proper integration and balance between rural and urban economy......

'Adequate arrangement should be made for the education of the masses with a view to raising them intellectually, economically, culturally and morally, and to fit them for the new forms of work and service which will open out before them......

'In regard to labour the State shall safeguard the interests of industrial workers and shall secure for them a minimum wage and a decent standard of living, proper housing, hours of work and conditions of labour......

'In international affairs, the Congress stands for the establishment of world federation of free nations...... India must develop friendly relations with all nations, and particularly with her neighbours. India, which has conducted her own struggle for freedom on a non-violent basis, will always throw her weight on the side of world peace and co-operation.'

Election Results—As was expected the Congress swept the polls in general constituencies. A large number of its candidates were returned unopposed to the Central and Provincial Assemblies; and where they were opposed by the Hindu Mahasabha, Liberal or Independent candidates, the latter suffered heavy defeats, forfeiting their securities in maney cases. In the Sikh eonstituencies in the Punjab though the Congress polled nearly one-half of the recorded votes, it could capture only one-third of the Sikh seats. The case was otherwise in the Muslim constituencies. In all the Hindu majority provinces the Muslim candidates put up by the Congress suffered heavy defeat except in the U. P., and to a smaller extent in Assam. In the Punjab and Bengal, two of the four Muslim majority provinces, the League secured signal success at the cost of the Congress. In Sind the Mulim League captured a majority of the Muslim seats and the pro-Congress section was in a minority. In the N. W. F. P., the Congress was successful in securing a majority, though the League fared much better than in the earlier elections of 1937. In other words, it can be said that both the National

Congress and the Muslim League emerged as the two strong political parties in the country. The National Congress could claim that its 'Quit India' resolution of 1942 had the support and backing of the masses ; it secured 190 lakh votes. Similarly the Muslim League could assert that a veay large section of the Indian Muslim confided in it ; it secured 15 lakh votes which constituted about 75% of the total votes cast ; while the Nationalist and other non-League Muslim secured 5 lakh votes or a little more than 25% of the total number of votes recorded. They, however, did not succeed in securing a proportionate number of Muslim seats. The result was that when popular ministries were formed in April 1946, Congress was in power in all the Hindu majority provinces and in the N. W. F. P., and the Muslim League formed the government in Bengal and Sind. In the Punjab the Congress, the Akalis and the Unionist formed a coalition out-numbering the Muslim League which constituted the single largest party.

Attlee's Statement—While the Congress sat awaiting developments. expecting His Majesty's Government to implement the policy outlined by the Viceroy in his broadcast of September 1945, Mr. Attlee, the British Prime Minister, made an important announcement in the House of Commons on March 15 in which he recognised India's right to Independence and expressed the determination of his Government to help Indians to attain freedom and not to allow any minority to place a veto on the advance of the majority, even though he and the British Government were mindful of the right of the minorities to be able to live free from fear. These words raised high hopes in the minds of Indians who began to think that veto which had been placed in the hands of the Muslim League by the Government of Mr. Churchill was about to be taken away from it. The hope, however, remained unfulfilled. The League did effectively prevent the settlement of the Indian question until its demand for Pakistan was conceded.

The Cabinet Mission—The Prime Minister also announced that a mission consisting of three high ranking members of the British Cabinet—namely, Lord Pethic Lawrence, Secretary of State for India; Sir Stafford Cripps, President of the Board of Trade ; and Mr. A. V. Alexander, First Lord of the Admiralty—was coming out to India to discuss with the leaders of Indian opinion the framing of an Indian constitution. He said : 'My colleagues are going out to

India with the intention of using their utmost endeavours to help her to attain that freedom (the freedom to decide their own Destiny) as speedily and fully as possible. What form of government is to replace the present regime is for India to decide, but our desire is to help her to set up forthwith the machinery for making that decision'.

The Cabinet Mission arrived at Karachi by plane on March 23, 1946, and reached Delhi the next day. Lord Pethic Lawrence, in the course of a statement at Karachi, said : 'We bring to the people of this country, on behalf of the British Government and of the British people, a message of cordial friendship and goodwill. We are convinced that India is on the threshold of a great future.'

It is not necessary to give here the details of the way in which the Cabinet Mission tried their hand in solving the political problem of the country. This much however must be remembered that though the members declared that they came with open minds and without any commitments to any particular views, they could not possibly write on a clean slate. They were more or less bound by the commitments of previous governments. It should also be borne in mind that their aim was to secure an 'agreed method of deciding on a new constitutional structure and the setting up of a more representative transitional government at the Centre', and not to determine the constitution itself. For the realisation of this objective it was necessary and indispensable for the members to understand the points of view of the different political parties, sections and interests in the country. They therefore started with interviewing and holding consultations with leaders of Indian opinion. They began with a conference with the Governor General who became a member of their Delegation, and the Governors of Indian Provinces. Later on, they invited leaders of the Congress and the Muslim League, and of other sections and interests including some of the Princes and important Prime Ministers of leading States. In all they had 'interviews with 472 leaders in 182 sittings. The variety of interests, classes, and creeds seeking through their representatives to press home their various demands is manifest from these numbers.'* But they concerned themselves mainly with the representatives of the National Congress and the Muslim League, and found they held most divergent views about the constitutional machinery proposed to be set up, namely, the Constituent Assembly, and also about the

* The Indian Annual Register. Jan.—June 1946, page 116.

composition of the interim government. The Mission made an earnest effort to bring the two major parties together and resolve their differences. They called a Tripartite Conference at Simla composed of three representatives of the Congress, three of the League, the Viceroy and the members of the Mission. As a basis of negotiations they suggested a scheme based on the following fundamental principles : India was to have a Union Government dealing with Foreign Affairs, Defence and Communications ; the Provinces were to be formed into two groups, one comprising the predominantly Hindu provinces, and the other the predominantly Muslim provinces. Each Group was to deal with such of the remaining subjects as the provinces in it might desire to be dealt with in common. The Provincial Governments were to deal with all the other subjects and were to have residuary sovereign rights.

The Tripartite Conference met for a week, from the 5th to the 11th of May. There was a full exchange of views ; and though both the Congress and the League were prepared to make considerable concessions in ord r to try and reach a settlement, it ultimately proved impossible to close the gap between the parties, and so no agreement could be concluded. The Congress was opposed to the principle of grouping. On the 12th of May its failure was announced. The Cabinet Mission and the Viceroy moved down to Delhi, and on May 16 they issued a statement containing their compromise proposals for the settlement of the problem. The proposals had the full approval of His Majesty's Government.

Having been 'greatly impressed by the very genuine and acute anxiety of the Muslims lest they should find themselves subject to a perpetual majority rule', the Mission examined the League demand for a separate and fully independent sovereign State of Pakistan. They came to the conclusion that the 'setting up of a separate sovereign Pakistan on the lines claimed by the Muslim League would not solve the communal minority problem. Nor could they see any 'justification for including within a sovereign Pakistan those districts of the Punjab and of Bengal and Assam in which the population is predominantly non-Muslim. Every argument that can be used in favour of Pakistan, can equally in our view, be used in favour of the exclusion of the non-Muslim areas from Pakistan'. The non-Muslims constituted about 38% of the total population in the North Western Zone comprising the Punjab, N. W. F., Sind and British Baluchistan,

and a little more than 48% in the North Eastern Zone containing Bengal and Assam. They also considered whether 'a smaller sovereign Pakistan confined to the Muslim majority areas alone' might be a possible basis of compromise, but found it to be an impracticable proposition. They regarded it as quite impracticable because it involved a radical partition of the Punjab and Bengal which was contrary to the wishes and interests of a very large proportion of the inhabitants of these provinces. The Muslim League, too, did not like this scheme in as much as it excluded from Pakistan valuable areas without which it would be 'a moth-eaten and truncated Pakistan'.

There were other important administrative, economic and military considerations which weighted the scale against the division of the country. It would have disintegrated the whole of the transportation, postal and telegraphic systems which had been established on the basis of a united India ; it would have involved a splitting up of the armed forces of the country and thereby dealt a heavy blow to its efficiency and long established traditions. In view of these and othe considerations the Mission found themselves unable 'to advise the British Government that the power which at present resides in British hands should be handed over to two entirely separate sovereign states'.

In a similar way the Cabinet Mission carefully examined the Congress scheme of an Indian Union under which the Provinces were to have full autonomy subject only to a minimum of central subjects comprising Foreign Affairs, Defence, and Communications. In case the provinces desired to take part in administrative and economic planning on a large scale, they could cede to the Centre optional subjects in addition to the three compulsory subjects enumerated above. This scheme 'would, in our views, present considerable constitutional disadvantages and anomalies'. It was also rejected by the Mission.

The Cabinet Mission also referred to the question of the relation between British India and the Indian States, and stated that under the new conditions it would be impossible for the British Crown to retain Paramountcy or to transfer it to the new Government of British India. It was however fortunate that the representatives of the Indian States had already expressed their willingness to co-operate in the new development of India. The precise form which their

co-operation was to take was a matter for negotiation between them during the building up of the new constitutional structure.

The Cabinet Mission Plan—After having rejected the Muslim League demand for a separate and sovereign Pakistan as 'impracticable', and the Congress scheme of a Union of India with only three compulsory subjects (and a few other optional subjects if the provinces so desired) as involving great constitutional disadvantages and anomalies, the Cabinet Mission proceeded to 'indicate the nature of a solution which in our view would be just to the essential claims of all parties, and would at the same time be most likely to bring about a stable and practicable form of constitution for All-India.' The Constitution was to take the following form :

'(*i*) There should be a Union of India ; embracing both British India and the States, which should deal with the following subjects : Foreign Affairs, Defence and Communications, and should have the powers necessary to raise the finances required for the above subjects.

'(*ii*) The Union should have an Executive and a Legislature constituted from British Indian and States' representatives. Any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.

'(*iii*) All subjects other than the Union subjects and all residuary powers should vest in the Provinces.

'(*iv*) The States will retain all subjects and powers other than those ceded to the Union.

'(*v*) The Provinces should be free to form Groups with executives and legislatures, and each Group could determine the Provincial subjects to be taken in common.

'(*vi*) The constitution of the Union and of the Groups should contain a provision whereby any province could, by a majority vote of its Legislative Assembly, call for a reconsideration of the terms of the constitution after an initial period of 10 years and at 10 yearly intervals thereafter.'

The Cabinet Mission made the above-mentioned recommendations in regard to the broad basis of the future constitution because it became clear to them in the course of their negotiations that 'not until that has been done was there any hope of getting the two major communities to join the setting up of the constitution-making

machinery.'

The Mission next took up the question of the constitution-making machinery. The absence of adult suffrage in the country and the fact that the numerical strength of the Legislative Assemblies in the various Provinces did not bear any proportion to the total population of each province and the further fact that the strength of each of the several communities in each provincial Legislative Assembly was not in proportion to its numbers in the Province, made the problem of the determination of the composition of the Constituent Assembly a difficult task. After a careful consideration of the various alternative modes in which the Constituent Assembly could be constituted the Cabinet Mission decided that the fairest and most practicable plan would be (*a*) to allot to each Province a total number of seats proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage ; (*b*) to divide this provincial allocation of seats between the main communities in each Province in proportion to their population, and (*c*) to provide that the representatives allotted to each community in a Province shall be elected by the members of the community in its Legislative Assembly.' For these purposes the Mission recognised only three main communities, General, Muslim and Sikh.

On the above basis the total strength of the Constituent Assembly was fixed at 385+4. British India was to have 292 members from the Governors' Provinces and four from the Chief Commissioners' Provinces. The Indian States were to have 93 representatives at the maximum. The representatives of British India were distributed among the various Provinces and communities as under :

Section A

Province	*General*	*Muslim*	*Total*
Madras	45	4	49
Bombay	19	2	21
United Provinces	47	8	55
Bihar	31	5	36
Central Provinces	16	1	17
Orissa	9	0	9
Total	167	20	187

Section B

Province		*General*	*Muslim*	*Sikh*	*Total*
Punjab		8	16	4	28
N. W. F. P.		0	3	0	3
Sind		1	4	0	4
	Total	9	22	4	32

Section C

Province		*General*	*Muslim*	*Total*
Bengal		27	33	60
Assam		7	3	10
	Total	34	36	70

In order to represent the Chief Commissioner's Provinces three members were to be added to Section A, one each from Delhi, Ajmer-Merwara, and Coorg. One was to be added to Section B to represent British Baluchistan.

The representation of the States was not to exceed 93 on the same basis of calculation. The exact method of their selection was to be settled by consultation. At the preliminary stage the States were to be represented by a Negotiating Committee.

The Statement of May 16 also lays down the business to be transacted by the Constituent Assembly at its first meeting. It includes the election of the Chairman and other office-bearers, election of the Advisory Committee on the Rights of Citizens, minorities and the tribal and excluded areas (which should contain representatives of the interests affected), and the division of the provincial representatives into three Sections, A, B, C, as shown in the table reproduced above. These sections are to settle the constitutions of the Provinces included in each one of them, and also to decide whether any group constitution is to be set up, and if so, with what provincial subjects the Group will deal. It also contained a provision giving to the Provinces the right to opt out of the Groups.

Among other matters to which reference is made in the Statement we may make mention of two only. It contemplates a treaty to be negotiated between the Constituent Assembly of the Union and the United Kingdom to provide for certain matters arising out of the transfer of power. And it attaches the greatest importance

to the setting up at once of an Interim Government having the support of the major political parties. In this Interim Government all the portfolios including that of the War Member were to be held by 'Indian leaders having the full confidence of the people.' The British Government will give the fullest measure of cooperation to the Government so formed in the accomplishment of its tasks of administration and in bringing about as rapid and smooth a transition as possible.'*

Appraisal of the Cabinet Mission Plan :—For a proper and correct appraisal of the Cabinet Mission Plan we must bear in mind the circumstances under which it was conceived and announced. It would be recalled that there was a deadlock in the country which the British Government wanted to remove as the war in Europe had ended in a complete victory for the Allies. They, *i. e.*, His Majesty's Government, were even willing to set up a Constituent Assembly for the farming of a new constitution for India. But the inability of the National Congress and the Muslim League to agree upon the method of framing a new constitution had created a serious obstacle. The two parties could not come to any understanding because their objectives differed widely. The Muslim League claimed that India should be divided into two completely separate and sovereign states, and refused to take part in constitution-making unless this claim was conceded in advance. The Congress stood for a single and united India, and was prepared to concede the greatest possible measure of autonomy to the Provinces to enable the Muslims to preserve their own culture and way of life in Muslim majority provinces ; it was, however, unwilling to agree to the creation of Pakistan. The Mission tried to bring the two parties together so that they could arrive at some settlement. After having failed in this attempt they had no option but to propose a solution 'which by securing the main objects of both parties will enable a constitution-making machinery to be brought into immediate operation.' They made their proposals 'after listening to all sides, and after much earnest thought.' Being of the nature of a compromise, their proposals were not calculated to satisfy all the parties completely. It must, however, be admitted that the proposals do represent an earnest and fair attempt to secure the main objectives

* All quotations in these sections are from the statement issued by the Cabinet Mission on May 16, 1946.

of the Congress and of the League.

By providing for a Union of India, consisting of the Provinces and the Indian States, and with an Executive and a Legislature empowered to deal with the essential subjects of External Affairs, Defence and Communications, and the finances necessary for these services, and by rejecting Pakistan, the Plan obviously accommodated the National Congress.

By giving the Provinces complete autonomy in all subjects except the three reserved for the Union—namely, foreign relations, defence and communications—and by further providing that provinces *may form themselves into groups to carry out common services covering a wider area than that of a single Province, and giving to these Groups executives and legislatures of their own*, the Cabinet Mission Plan sought to give to the Muslims all the advantages of Pakistan without incurring the dangers involved in a division of the country. Bengal and Assam were to form one Group ; and the Punjab, the N. W, F., Sind and British Baluchistan were to constitute another Group. The territories covered by the two Groups were exactly those which the League wanted to include in Pakistan. Further, as has been stated earlier, the Plan provided that a question raising a major communal issue in the Constituent Assembly required for its decision a majority of the representatives of each community and of the members of the C. A. as a whole. This again was done to meet the League standpoint. These large concessions were made to secure the assent and cooperation of the League which otherwise was not forthcoming. That the League found in the proposals of the Cabinet Mission the substance of Pakistan is evident from the fact that, while critical of the Statement, particularly in regard to the formal rejection of the demand for Pakistan, the Muslim League Council passed a resolution on June 6, 1946, accepting the scheme.

The Cabinet Mission Plan had other merits also. The Constituent Assembly was to be constituted on the democratic principle of population strengths and proportional representation. The old method of giving weightage to the minorities was completely done away with. Communal representation was reserved only for the Muslim and the Sikhs, and not for the Anglo-Indians, Indian Christians, and other numerous interests which were recognised by the Act of 1935. Even though the principle of communal

representation was not given up in its entirely, it was no small gain that its area was restricted. It may be pointed out in this connection that the Congress showed great wisdom and large—heartedness in giving some of the general seats in the Constituent Assembly to Anglo-Indians Christians and the non-Congress Hindus.

It was also a great merit of the Mission Plan that the entire membership of the Constituent Assembly was Indian. On the attention of the Cabinet Mission being drawn to the fact that under its scheme the European members of the Legislative Assemblies in Bengal and few other provinces could secure the election of some Europeans to the Constituent Aseembly, they and the Governor-General saw to it that the European members did not take part in the election of the members of the Constituent Assembly. The Europeans in the U. P. Legislative Assembly formed the only exception to this rule. There was to be no interference with the work of the Constituent Assembly either from the British Government or from the officials. Within the framework of the scheme the Constituent Assembly was sovereign.

The merits of the scheme were very lucidly pointed out by Lord Wavell in a broadcast from Delhi on May 17. Here are a few extracts from it :

'I can assure you of this, that very much hard work, very much earnest study, very much anxious thought, and all the goodwill and sincerity at our command have gone to the making of these recommendations. We would have much preferred that the Indian leaders should have themselves reached an agreement on the course to be followed, and we have done our best to persuade them; but it has not been found possible, inspite of concessions on both sides which at one time promised results.

'The proposals put before you are obviously not those that any one of the parties would have chosen if left to itself. But I do believe that they offer a reasonable and workable basis on which to found India's future constitution. They preserve the essential unity of India which is threatened by the dispute between the two major communities; and in especial they remove the danger of the disruption of that great fellowship, the Indian army...........on whose strength, unity and efficiency her future security will depend.

'They offer to the Muslim community the right to direct their own essential interests, their religion, their education, their culture,

their economic and other concerns......To another great community, the Sikhs, they preserve the unity of their home-land the Punjab....... They provide in the special committee, which forms a feature of constitution-making machinery, the best chance to the smaller minorities to make their needs known and secure protection for their interests . ...They offer to India the prospects of peace, a peace from party strife........

Congress Attitude to the Scheme—The Congress President called a meeting of the Working Committee on May 17 to consider the scheme. The Committee sought clarification on some points which were either contrary to the Congress standpoint or failed to meet its requirements. One of the points referred to the Grouping of Provinces, another to the sovereign character of the Constituent Assembly, and a third referred to the new basis and character of the proposed Interim Government. The question of grouping the Provinces was a vital one, and the Working Committee drew the attention of the Cabinet Delegation to the discrepancy between its recommendations made at two different places. Section 5 of paragraph 15 of the Statement leaves the Provinces 'free to form Groups with executives and legislatures', while clause (*v*) of paragraph 19 seems to make it compulsory for the Provinces to join Groups Congress would not object to grouping if the Provinces were given freedom of choice to join or not to join, but would seriously object to the principle of compulsory grouping. The Working Committee considered the Statement in the light of its objectives, namely, 'Independence for India; a strong, though limited central authority; full autonomy for the Provinces; the establishment of a democratic structure in the centre and in the units; the guarantee of the fundamental rights of each individual so that he may have full and equal opportunity of growth; and that each community should have opportunity to live the life of its choice within the larger framework.' Since the Mission Statement did not give a full picture of the future, particularly of the National Government proposed to be established at the centre, the Committee found themselves unable to give any opinion on it at that stage.

The League Attitude.—The Council of the Muslim League also met on May 22, and issued a statement which was highly critical of the scheme and non-committal in attitude. It sought clarification on several points.

Cabinet Clarification.—On May 25 the Cabinet Mission issued a statement which emphasised the point that the scheme stood as a whole and could succeed only if it was accepted and worked in a spirit of cooperation. It also stated that once the Constituent Assembly was formed and began working there was no intention of interfering with its discretion or questioning its decisions. With regard to the question of grouping raised by the Congress it said that the interpretation that the Provinces are *free* to group does not accord with the Delegation's intentions.

The Controversy about the Interim Government.—The proposal to set up an Interim Government having the support of the major political parties formed an important and integral part of the recommendations made by the Cabinet Mission. The task was left to the Viceroy who entered into correspondence with Indian leaders. It came to be described as the *short-term* plan as distinguished from the setting up of the constitution-making machinery which was called the *long-term* plan. A good deal of correspondence took place between Lord Wavell and the Presidents of the Congress and the League on this topic. The Congress wanted a declaration to the effect that the Interim Government would function as a Dominion Cabinet and be responsible to the Central Assembly, with the Governor General functioning as the constitutional head. In reply the Governor General said that it was the intention of His Majesty's Government to give to the Indian Government the greatest possible freedom in the exercise of the day-to-day administration of the country, and that it was his intention to carry out the undertaking faithfully. The Muslim League, on the other hand, wanted parity with the Congress in the new government to which the Congress was irrevocably opposed. In the tentative suggestions which the Vicerory sent to the Congress President this principle of parity had been accepted. On this the Congress President wrote a long letter to the Viceroy from which the following extracts are given : 'In the composition of the cabinet suggested by you there is parity between the Hindus including the Scheduled Classes and the Muslim League; the number of Caste Hindus is actually less than the nominees of the Muslim League. The position is thus worse than it was in June 1945 at Simla where, according to your declaration then, there was to be parity between Caste Hindus and Muslims, leaving an additional seat for the Scheduled Class Hindus. The Muslim seats

were not reserved for the Muslim League only but could include non-League Muslims. The present position thus puts the Hindus in a very unfair position and at the same time eliminates the non-League Muslims. My Committee are not prepared to accept such a proposal.........We are opposed to *parity* in any shape or form.' There were other points also regarding which the Congress did not accept the suggestions made by the Governor General.

The Statement of June 16.—The Working Committee could not accept the proposals made from time to time by the Viceroy for securing the participation of the Congress in the interim national government, as they were unfair and unjust to the Congress and to smaller minorities. It therefore became necessary for the Cabinet Mission and the Viceroy to set forth their proposals for the establishment of the Interim Government. They issued a statement on June 16, 1946. The following are the important extracts from it :

'His Excellency the Viceroy, in consultation with the members of the Cabinet Mission, has for some time been exploring the possibilities of forming a coalition government drawn from the two major parties and certain of the minorities. The discussions have revealed the difficulties which exist for the two major parties in arriving at any agreed basis for the formation of any such government.

'The Viceroy and Cabinet Mission appreciate these difficulties... They consider that no useful purpose can be served by prolonging these discussions. It is indeed urgently necessary that a strong and representative Interim Government should be set up.........

'The Viceroy is therefore issuing invitations to the following to serve as members of the Interim Government on the basis that the constitution-making will proceed in accordance with the Statement of May 16 : Sardar Baldev Singh, Sir N. P. Engineer, Mr. Jagjivanram, Pandit Jawahar Lal Nehru, Mr. M. A. Jinnah, Nawabzada Liaquat Ali Khan, Mr. C. Rajagopalchari, Dr. H. K. Mehtab, Dr. John Mathai, Nawab Mohammad Ismail Khan, Khwaja Sir Nazimuddin, Sardar Abdur Rab Nishtar, Sardar Vallabhai Patel, and Dr. Rajendra Prasad. If any of those invited is unable for personal reasons to accept, the Viceroy will, after consultation, invite some other person in his place.

'The Viceroy will arrange the distribution of portfolios in consultation with the leaders of the two major parties.

'In the event of the two major parties or any of them proving unwilling to join in the setting up of a Coalition Government on the above lines, it is the intention of the Viceroy to proceed with the formation of an Interim Government which will be as representative as possible of those willing to accept the statement of May 16th'.

The Viceroy sent a copy of the Statement to the Presidents of the Congress and the Muslim League and hoped that the parties would take their share in the administration of the country. He appealed to them 'to look to the wider issue and to the urgent need of the country as a whole and to consider this proposal in a spirit of accommodation'.

Congress rejects the June 16 plan.—The Congerss Working Committee met at Delhi on June 25 and the following days, and after full consideration and deliberation reluctantly came to the conclusion that they could not join the proposed Interim Government. Their reasons for doing so were numerous and were set out in a long letter dated June 25, addressed to the Viceroy. It is not necessary to state all of them; reference can be made only to a few important ones. In view of its *national* character and the presence of Muslims in its membership it insisted on the right of including a nationalist Muslim among the Congress representatives in the Interim Government. The Viceroy and the Cabinet Mission did not find themselves in a position to accept this demand, because Mr. Jinnah strongly objected to it. In one of his letters to Mr. Jinnah Lord Wavell agreed to treat the Scheduled classes as a minority and to consult the leader of the Muslim League in case the question of selecting a person to fill the seat reserved for this community arose in the future. The Viceroy had also made other commitments to Mr. Jinnah which were bound to render the smooth working of the Interim Government very difficult and the occurrence of deadlocks a certainty. It is not surprising that the Working Committee found themselves unable to assist the Viceroy in the formation of the Interim Government as proposed in the Statement of June 16. They, however, accepted the Cabinet Mission Plan of May 16, and agreed to join the Constituent Assembly while adhering to their own interpretation of some of the clauses of the Statement.

The following extract from the resolution of the Working

Committee passed on June 26, 1946, lucidly sums up the Congress position in regard to the long-term and short-term plans of the Cabinet Mission. 'In the formation of a provisional or other government Congressmen can never give up the national character of the Congress or accept an artificial and unjust parity, or agree to the veto of a communal group. The Committee are unable to accept the proposals for the formation of an Interim Government as contained in the Statement of June 16. The Committee have however decided that the Congress should join the proposed Constituent Assembly, with a view to framing to constitution of a free, united and democratic India.'

The Muslim League, as has been indicated already, passed a resolution on June 6, 1946, accepting the scheme and expressing its willingness to join the constitution-making body while keeping in view 'the opportunity and the right of secession of Provinces or Groups from the Union which have been provided in the Mission's plan by implication.' Its President carried on prolonged correspondence with the Viceroy in connection with the formation of the Interim Government, and was looking forward to its establishment when on account of the decision of the Congress Working Committee to accept the Statement of May 16 and to reject that of June 16, the Viceroy 'felt that it would be better to have a short interval before proceeding with further negotiations for the formation of an Interim Government.' The Cabinet Mission issued a statement on June 26 in which they welcomed the 'statements made to them by the leaders of the Congress and the Muslim League that it is their intention to try and work in the Constituent Assembly', and regretted that it had not proved possible to form an Interim Coalition Government. They also wished that efforts should be renewed 'in accordance with the terms of paragraph 8 of their statement of June 16th'. Meanwhile a temporary Caretaker Government of officials was to be set up to carry on the work of the government and of elections to the Constituent Assembly. The Cabinet Mission left for England on June 29; and on that very day the names of the 7 members of the Caretaker Government were announced.

The Attitude of the Sikhs and other Groups towards the Mission.—In the preceding account of the Cabinet Mission and their proposals no reference has been made to the attitude taken

up by the Sikhs, the Hindu Mahasabha, the Indian States, the States' peoples, and other sections of public opinion in the country, attention has been concentrated on the reactions of the two major political parties only, the Congress and the League. A few words may be added about the attitude of the other bodies also.

The Sikh representatives expressed their determined and unequivocal opposition to Pakistan and told the Mission that in no case would the Sikhs agree to the establishment of Pakistan. In case Pakistan was granted in opposition to their wishes, they would insist upon the establishment of an independent Sikh State. The Sikh League condemned the Plan of May 16 and exhorted the Sikhs to prepare themselves for the struggle that lay ahead. There is no doubt that the statement of May 16 was in many ways unfair to the Sikhs. Though it recognised them as an important minority—third in importance in the whole country—and gave them separate representation in the Constituent Assembly, it failed to provide any safeguards for them similar to those provided for the Muslims. The main grievance of the Sikhs was that the Plan 'throws them entirely at the mercy of the Muslims and does not give them the same right as is given to Muslims and the Hindus under Section 15 (2), and 19 (7). The Congress Working Committee, however, ultimately succeeded in inducing them to send their representatives to the Constituent Assembly on the promise of safeguarding their rights and interests.

The Working Committee of the Hindu Mahasabha also condemned the proposals of the Cabinet Mission, particularly the virtual concession of Pakistan, parity of representation, and European participation in the Bengal-Assam Constituent Assembly, *i. e.*, in Section C of the Constituent Assembly. The All-India-Committee of the Sabha 'notes that the fundamental principle of the Hindu Mahasabha, *viz.*, the unity and integrity of India, has been accepted only in theory by the Cabinet Mission......but in practice it is whittled down......The dominant idea behind the Cabinet Mission Scheme is to appease the Muslim League to the detriment of all other minorities'. It was opposed to the 'three-decker constitution........ which will place the Hindus of the Panjab, Bengal, Assam, Sind, the N. W. F. P. as well as the entire Sikh community at the mercy of the Pakistanis......' It also demanded the withdrawal of the artificial system of grouping and sub-federation.

With regard to the attitude of the Indian Princes only this much need be said that the general opinion at the meeting of the Rulers and their Ministers held at Bombay on the 7th of June, 1946, under the chairmanship of the Nawab of Bhopal, Chanceller of the Chamber of Princes, was in favour of accepting the proposals put forward by the Cabinet Mission.

The General Council of the All India States' People Conference passed a resolution which noted with regret and surprise that the representatives of States' peoples were completely ignored by the Cabinet Delegation in their talks and consultations, and demanded that the peoples of the States should have a hand in the choice of the representatives of the States to the Constituent Assembly, and that their representatives should be included in the Negotiating Committee to be set up in terms of the Statement of May 16.

Mahatma Gandhi on the Cabinet Mission Statement—The Congress Working Committee, the Council of the Muslim League, the Sikh Conference, the Working Committee of the Hindu Mahasabha, and other bodies of public opinion in the country looked at and examined the Cabinet Mission statement from their different and conflicting points of view, and were naturally critical of it as it could not satisfy any party completely. Mahatma Gandhi examined it from a different angle and felt convinced that 'it is the best document the British Government could have produced in the circumstances..................It reflects our weakness,..................if we would be good enough to see it. The Congress and the Muslim League did not and could not agree.............. ..The authors of the document have gathered...........the minimum they thought would bring the parties together for framing India's charter of freedom. Their one purpose is to end British rule as early as may be. They would, if they could, by their effort leave a united India not torn asunder by internecine quarrel bordering on civil war.......... There are other things in the document which would puzzle any hasty reader who forgets that it is simply an appeal and an advice to the nation showing how to achieve independence in the shortest time possible'. Mahatmajee was not unmindful of the vital defects in the Plan. He pointed them in an article in the *Harijan* of June 2, 1946. It is not necessary to refer to them here; our aim was to show how far he was appreciative of it in the midst of the chorus of criticism and condemnation by other parties.

Formation of the National Government—As has been stated earlier the Cabinet Mission left for England on June 29, after having laboured for about four months to straighten out the Indian problem without much success. The Congress accepted the long-range scheme of May 16, but rejected the short-range plan of June 16; it agreed to participate in the Constituent Assembly but declined to join the Interim Coalition Government as it felt that the terms as proposed by Lord Wavell were unfair to the Hindus and other minorities. The Muslim League manouvered hard to form the government in the absence of the Congress, but the Governor-General did not agree. Lord Wavell continued his efforts to form a Coalition Government, and on July 22 communicated to the Presidents of the Congress and the League the following fresh proposals for their consideration: '(*i*) The Interim Government will consist of 14 members of whom six will be nominated by the Congress (one of them is to be a representative of the Scheduled Classes), five will be nominated by the Muslim League, and three by the Viceroy as representatives of the other minorities. One of the last three will be a Sikh. (*ii*) It will not be open to either the Congress or the Muslim League to object to the names submitted by the other party, provided they are acceptable to the Viceroy. (*iii*) Distribution of portfolios will be decided after the parties have agreed to enter the Government and have submitted their names. The Congress and the Muslim League will each have an equitable share of the most important portfolios. (*iv*) I would welcome a convention, if freely offered by the Congress, that major communal issues can only be decided by the consent of both the major parties. A coalition Government can work on no other basis.'

The League refused to join the Coalition Government for two reasons. The proposals were not acceptable to it because they constituded a departure from the principle of Congress-League parity on which the League had laid stress since the Simla Conference held in July 1945. Further they gave to the Congress the right to include a non-League nationalist Muslim in the list of its nominees. The Congress, on the other hand, accepted the proposals and agreed to join the Interim Government. The Viceroy therefore invited Pandit Jawahar Lal Nehru to make proposals for the formation of the Interim Government. The following communique was issued by the Viceroy on August 24, 1946 :—

'His Majesty, the King, has accepted the resignation of the present members of the Governor-General's Executive Council. His Majesty has been pleased to appoint the following: Pandit Jawahar Lal Nehru, Sardar Vallabhbhai Patel, Dr. Rajendra Prasad, Mr. Asaf Ali, Mr. C. Rajagopalchari, Mr. Sarat Chandra Bose, Dr. John Mathai, Sardar Baldev Singh, Sir Shafaat Ahmad Khan, Mr. Jagjivan Ram, Syed Ali Zaheer, and Mr. C. H. Bhabha. Two more Muslim members will be appointed. The Interim Government will take office on September 2.'

Thus was solved the problem of setting up the Interim Government. The solution did not, however, have the approval and consent of the League. The latter therefore stayed out of the Government. The difficulties involved in the formation of the Interim Government should be clearly realised before any judgment on its composition is passed. They were implicit in the fact that the Congress and the League were deeply divided in their objectives and standpoints. The League claimed parity with the Congress in the constitution of the Viceroy's Executive Council inspite of the fact that the Muslims constituted about 25% of the total population of British India. The Congress could not possibly accept this absurd demand. In the next place, the League would not tolerate the idea of a Nationalist Muslim being appointed a member of the Interim Government. It was on this issue that the Simla Conference broke down and the Congress rejected the Cabinet Mission short-term plan of June 16. There could be no *via media* between the conflicting demands of the League and the Congress in this matter such as the Cabinet Mission proposed in regard to the demand for Pakistan in their plan of May 16. At long last the Viceroy and the British Government recognised the justice of the Congress stand and therefore put forth the proposals of July 22 as the most suitable and equitable basis for the formation of the Interim Government.

The League Reaction: Direct Action—But the decision of the Viceroy to form the Interim Government on this basis drove the Muslim League into a policy of non-cooperation with the Mission. By its resolution of July 29, the League Council withdrew support to the long and short term plans of the Cabinet Mission and decided to resort to *direct action* for the achievement of Pakistan. It is not necessary here to refer to the angry out-burst of Mr. Jinnah and the charge of eating their words which he levelled against the Cabinet

Mission.

The Muslim League fixed August 16 as the 'Direct Action' day. This direct action was not directed against the alien authority of the British Government as the direct action of the Congress had been ; it was not resorted to for the wresting of Pakistan from the hands of an unwilling Government. It was directed against the Hindus. It set the Hindus and the Muslims into two warring camps, and was directly responsible for the bloodshed and beastiality which the residents of Calcutta witnessed for four days in August 1946, for the terrible cruelties inflicted on the Hindus of Noakhali in October of the same year, for the vengeance which the Hindus of Bihar took upon their Muslim neighbours, and later on, for the horrors and inhumanities prepetrated in the Punjab both before and after the partition. It will serve no useful purpose to rake up the horrible past ; therefore no attempt is made here to dish up and narrate the blood-curdling events that took place at various places in the country for more than a year after the 16th of August 1946. But this much must be pointed out that while Hindu property was being looted, burnt and destroyed and Hindu men and women murdered in Calcutta, the police and the guardians of law and order stood as dolls in the face of this anarchy. The Government failed to take steps to bring under control the carnage in Calcutta for the first two or three days. This was in sharp contrast to the steps taken by the British Government to supress the revolt of August 1942. The reason for the difference is to be found in the fact that a Muslim League Ministry was functioning in Bengal. and its Premier, Shri H. S. Suhrawardy, wanted to create an impression on the Hindus and the Congress. No high official of the Central Government paid any visit to Calcutta and Noakhali, and the Muslim League leaders did not utter a word of condemnation of the barbarities and acts of gangsterism committed by their followers.

The League enters the Interim Government—The resolution of the Muslim League Council rejecting the long and short term plans of the Cabinet Mission and recommending 'direct action' for the achievement of Pakistan did not discourage Lord Wavell. On the contrary, he renewed his efforts to induce the League to rescind its resolution, join the Interim Government and take part in the work of the Constituent Assembly. He was partially successful. The League agreed to enter the Executive Council, but did not rescind

its resolution which rejected the long-range plan of the Cabinet Mission. In other words, while giving the Muslim League five seats in his Executive Council, the Viceroy did not obtain from it the promise of participating in the work of constitution-making. This was a great mistake as later events showed. In the second place, it should be remembered that the League did not enter the Interim Government with any intention of cooperating with the other parties in bringing Independence near, or with a view to making it function like a dominion cabinet; it joined it in order to get a foothold to fight for its cherished goal of Pakistan, and to work 'as the sentinel of exclusively Muslim interests.'* Under such circumstances there could be no 'joint responsibility' of the Executive Council; it could not function as a cabinet. The expectation that sheer pressure of events will force the Executive Council into common action and collective responsibility in matters of high policy did not materialise. The experience of a few weeks led Pandit Nehru to remark that since the entrance of the Muslim League representatives on the 26th of October Lord Wavell had been removing 'one by one the wheels of the Cabinet coach', and bringing it to a standstill, so that the Central Government could not do anything on the lines on which the Congress leaders had hoped to advance the reconstruction of the country's economy. In a speech delivered during the annual session of the Congress held at Meerut Pandit Nehru declared that the Muslim League had been acting as the King's party. The Government of India had become a collection of administrative departments; it was not an integrated whole which the Congress was trying to make it. How far the failure to develop *de facto* collective responsibility was due to the heterogeneous composition of the Executive Council, how much to the intransigence of the Muslim League, and how much to external wire-pulling is difficult to estimate. It is no use trying to apportion blame.

The entry of the five nominees of the Muslim League in the

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* Mr. Jinnah, explaining his position to a group of foreign correspondents, said that he did not regard the new set-up in the Central Government as either a Cabinet or a Coalition Government; it was simply the Executive Council of the Governor General formed under the Government of India Act of 1919. It can be concluded that he wanted neither responsible government nor Dominion Status in action; what he seemed to desire was to free Lord Wavell from Indian control.

Interim Government necessitated its reconstitution. The New Interim Government which was formed on October 26, 1946, consisted of 14 persons, six of whom were Congressmen, five Muslim Leaguers and three belonged to other minorities. It was thus nicely balanced as between communities and also as regards distribution of important portfolios.

The League and the Constituent Assembly—It has been pointed out above that the League passed a resolution rejecting the Cabinet Mission Plan of May 16. When Lord Wavell wanted to bring the League representatives in the Interim Government, Pandit Nehru asked for specific assurances from the League that it would cooperate in the work of the Government and the Constituent Assembly. In reply the Viceroy wrote to Pandit Nehru as follows: 'Mr. Jinnah has assured me that the Muslim League would come into the Interim Government and the Constituent Assembly with the intention of cooperating.' But when invitations were issued over the Viceroy's signature on November 25, 1946, to the members of the Constituent Assembly elected by Provincial Legislative Assemblies, to assemble at New Delhi on December 9 to transact business outlined in the Cabinet Mission Statement, Mr. Jinnah declared: 'In these circumstances, it is obvious that no representative of the Muslim League will participate in the Constituent Assembly, and the Bombay resolution of the League Council passed on July 29 stands.'

As a matter of fact when the Constituent Assembly met at New Delhi on December 9, the Muslim League members were conspicuous by their absence. Why under these circumstances the League members should have been allowed to remain in the Interim Government is very difficult to explain. It may also be mentioned that when asked in the course of a press conference if he had made any promise to Lord Wavell to call a meeting of the League Council to reconsider and rescind the resolution of July 29, Mr. Jinnah categorically said that he never made any promise of that sort.

Summary—The political situation as it developed in the country after the departure of the Cabinet Mission in July 1946, may be summed up thus. The Congress accepted the long-range plan of the Mission, and also joined the Interim Government. The Muslim League at first accepted both the long and short-range plans of the Cabinet Mission, but at a later stage rejected both of them. Inspite of this rejection, Lord Wavell took five nominees of the League in

the Interim Government without first securing a formal withdrawal of the League Council resolution of July 29. Inside the Interim Government it soon became evident that the Muslim League had absolutely no intention to cooperate with the Congress members in developing the spirit of joint responsibility ; its nominees had gone there to resist attempts which might prejudice or militate against the demand for Pakistan directly or indirectly. The Interim Government was thus disintegrating. Tne Viceroy issued invitations to the members of the Constituent Assembly to meet at Delhi on December 9. The Muslim League, however, refused to participate in its work and directed its members to abstain from attending the session. In short, the proposals of the Cabinet Mission did not bear any fruit ; the Congress and the Muslim League, the two major political parties, were no nearer to each other towards the close of 1946 than they were at its commencement.

London Conference.—In view of these developments Lord Wavell began consultations with the British Cabinet as a result of which the British Prime Minister invited the Viceroy, Pandit Nehru, Sardar Vallabhbhai Patel, Mr. Jinnah and Mr. Liaquat Ali Khan to a Conference in London. The Congress leaders were unwilling to proceed to London as they apprehended that the Conference was being called to re-open and reconsider the various decisions arrived at since the arrival of the Cabinet Mission, and that any variation or modification of them would mean giving in to the League intransigence and incitement to violence. Mr. Attlee cabled to Pandit Nehru that there was no intention of either abandoning the decision of the Constituent Assembly to meet on the date fixed for the purpose, or modifying or giving up the Cabinet Mission Plan. It was the desire of His Majesty's Government to secure its implementation in full. Thereupon Pandit Nehru and Sardar Baldev Singh left for London to take part in the Conference.

The main question discussed at the London Conference seems to have been the vexed question of the Grouping of Provinces. The Congress was all along of the opinion that the Provinces were free to join a Group or keep out of it ; this was the necessary implication of the autonomy of Provinces on which the Cabinet Plan had laid great strees. The League held a different view and maintained that whether Groups were to be formed or not was to be decided by the members assigned to each section by a majority of votes ; no

Province was free to exercise its choice in the matter. It may be stated here that Assam and the N. W. F. P. protested from the very beginning against their being under the Sections to which they had been assigned by the Mission Plan. The Conference failed to arrive at an agreed conclusion and therefore failed in its purpose of obtaining the participation and co-operation of all the parties in the Constituent Assembly. The statement issued by His Majesty's Government on the London Conference contained the views of the Mission on this vital question. They deserve to be quoted in full.

'The main difficulty that has arisen has been over the interpretation of paragraph 19 (5) and (8) of the Cabinet Mission Statement of May 16, relating to meeting in sections.........

'The Cabinet Mission have throughout maintained the view that the decisions of the sections should, in the absence of an agreement to the contrary, be taken by a simple majority vote of the representatives in the sections. The view has been accepted by the Muslim League, but the Congress have put forward a different view. They have asserted that the true meaning of the statement, read as a whole, is that the provinces have the right to decide both as to grouping and as to their own constitutions.

'His Majesty's Government have had legal advice which confirms that the Statement of May 16 means what the Cabinet Mission have always stated was their intention. This part of the Statement, as so interpreted, must therefore be considered an essential part of the scheme of May 16 for enabling the Indian people to formulate a constitution which His Majesty's Government would be prepared to submit to Parliament. It should therefore be accepted by all parties in the Constituent Assembly.

... ...

'There has never been any prospect of success for the Constituent Assembly except upon the basis of the agreed procedure. Should a constitution come to be farmed by the Constituent Assembly in which a large section of the Indian population has not been represented, His Majesty's Government could not, of course, contemplate—as the Congress have stated they would not contemp late—forcing such a constitution upon any unwilling parts of the country.'

Though the London Conference failed to resolve the differences between the Congress and the League, it yielded rich dividends to

Mr. Jinnah. In the first place, it secured the endorsement of the British Government to the League interpretation of the clause concerning the grouping of Provinces which was a vital part of Cabinet Mission scheme. In the second place, it gave to the Muslim League the assurance that a constitution framed by a Constituent Assembly in which it was not represented would not be forced upon the Muslim community. The Congress leaders drew a contrast between this statement and a previous declaration of Mr. Attlee in which he had declared that no minority would be allowed to hold up the political progress of the majority. In the third place, it provided a handle to the Muslim League to justify the continued presence of its nominees in the Interim. Government notwithstanding its refusal to acccept the Statement of May 16. It argued that the Congress also could not be said to have accepted the said scheme until it accepted the principle of grouping as interpreted hy the Mission.

Congress Reaction to the London Conference :—The Congress Working Committee and the A. I. C. C. considered the statement of December 6, and resolved that '......with a view to removing the difficulties that have arisen owing to variyjng interpretations, they agree to advise action in accordance with the interpretation of the British Government in regard to the procedure to be followed in the Sections. It must be clearly understood, however, that this must not involve any compulsion of a province and that the rights of the Sikhs in the Punjab should not be jeopardised.........'

The Constituent Assembly :—Meanwhile the Constituent Assembly met for its first session on December 9, 1946, as originally fixed. The Congress leaders did not accept the plea of Mr. Jinnah for its postponement because they thought that it was merely a device to secure delay in the hope that something might turn up during the interval which the League might use to its own advantage.

On the first day 207 members out of a total of 286 elected from British India attended the session. All the Muslim League members numbering 74 were absent. Only four Muslims who were Congressmen and were returned on the Congress ticket were present. The late Dr. Sachchidanand Sinha, the veteran leader of Bihar and the oldest member of the Consembly was elected temporary chairman to conduct the meetings until the choice of the permanent President.

In his inaugural address Dr. Rajendra Prasad, the permanent President, laid strees on the claim of the Constituent Assembly to be 'a self-governing and self-determining independent body in whose proceedings not outside authority can interfere and whose decision no one outside can upset, alter or modify.' Four days later Pandit Jawahar Lal Nehru moved a resolution outlining the objectives of the Constituent Assembly, namely, the creation of an independent, sovereign republic. It does not fall within the scope of this chapter to give an account, however brief, of the deliberations of the Consembly and the character of the constitution it hammered into shape. We shall here state only this much that on account of the uncertainty about the attitude of the Muslim League a feeling of indecisiveness marked the proceedings of the first two sessions. It may also be mentioned that all the great leaders of the country who had guided and moulded the activities of the Congress during the preceding half a ecentury and were managing its affairs when the Consembly was constituted, *e. g.*, Pandit Nehru, Sardar Patel, Maulana Azad, Shri Rajagopalachari, Acharya Kripalani, Pandit Govind Ballabh Pant, adorned its benches and contributed to the task of constitution-making. Mahatma Gandhi, the Father of the Nation, was the only great leader who was not its member. He was engaged elsewhere in the noble and peaceful mission of establishing communal peace and harmony and giving solace to suffering humanity in Noakhali and Bihar.

Britain Decides to Quit India.— The open rebellion of 1942 had given ample proof not only of the 'pluck, courage and intrepidity' of the people of India, but also of their determination to be free and their 'latent powers of *impromptu* organisation. Their detestation of foreign rule and resolve to be free were further revealed by the events which took place during the two concluding months of 1945 and the first six months of 1946. There were countrywide demonstrations in which people of every snade of political opinion took part for the release of Major Seghal, General Shah Nawaz and Captain Dhillon, leaders of the Indian National Army or Azad Hind Fauj, who had been tried in the Red Fort of Delhi and sentenced to long terms of imprisonment. On November 19, 1945, the students of Calcutta staged a demonstration and wanted to march towards the Dalhousie Square. They were stopped by the police and asked to go back. They refused to return and squatted on the roadside. The police

opened fire on them without any provocation. This was the signal for rioting on a mass scale. Many persons were killed. The Government had to remove the ban and allow the students to march to and enter Dalhousie Spuare. The lesson of these demonstrations was not lost upon the Government.

In February 1946 there was again an upsurge in connection with the demand for the release of Abdul Rashid, another I. N. A. prisoner, in which Hindus and Muslims were united. In Bombay there was a serious mutiny on the part of naval ratings who demanded the abolition of racial discrimination in the treatment meted out to them. There was a great hartal in the city in sympathy with the mutineers. The mutiny spread to Karachi and Madras, and there were sympathetic strikes in the air and police forces. The naval ratings surrendered after a heroic struggle only when the leaders of the Congress intervened and asked them to give in on the assurance that their demands would be looked into, and that there would be no victimisation. A little latter there was a strike of Indian Signal Corps at Jubbulpure, and also among the police force at Delhi and in Bihar. All these events made the British statesmen realise that they could not hope to maintain their rule in India on the old basis for long.

Then there was the great Calcutta killing of August 1946, the frenzy of communal hatred which burst out in Noakhali and Tipperah in East Bengal, the reaction produced by these tragedies in Bihar and the U. P., and the large scale disturbances that took place in Lahore, Rawalpindi and Multan in March-April, 1947. All these events showed that the administrative structure in India was cracking. Nor were the conditions within the Interim Government any better. It is no exaggeration to say that history hardly supplies an instance of parties in a coalition so determined not to cooperate with each other as the Congress and the League. The Congress demaned that the League must quit the Interim Government as it was not cooperating in the work of the Constituent Assembly. The League retorted that the Congress must leave the Government because it did not accept the plan of May 16 in its entirety. The situation was thus fast getting out of hand. Added to this unhappy situation in the country was the fact that the Second World War had left Great Britain weak as a world power. Her statesmen found that they could not easily bear the burden of the Empire. All these things led the British Labour Government to the conclusion that they should

quit India by a certain fixed time whether the Congress and the League came to any understanding or not. It is no doubt true that the British Government could have mustered force enough to hold India down for a few more years. A Conservative Government headed by an enemy of Indian aspirations like Mr. Churchill would have, in all likelihood, adopted such a course. The Labour Government, however, very wisely realiced that by retiring with grace and with expressions of goodwill they may by able to preserve the bulk of their economic interests for a long period. Accordingly, Mr: Clement Attlee, the British Prime Minister, made a statement in the House of Commons on February 20, 1947, in which he announced the decision of His Majesty's Government to hand over power to the people of India by a date not latter than June 30, 1948. The following is the operative part of the announcement :—

'His Majesty's Government desire to hand over responsiblity to authorities established by a Constitution approved by all parties in India, in accordance with the Cabinet Mission Plan. But, unfortvnately, there is at present no clear prospect that such a constitution and such authorities will emerge. The present state of uncertainty is fraught with danger and cannot be indefinitely prolonged. His Majesty's Government wish to make it clear that it is their definite intention to take the necessary steps to sffect the transference of power to responsible Indian hands by a date not later than June 1948.'

The Statement also contained the following significant provision : 'If it should appear that such a constitution will not have been workcd out by a fully representative Assembly before the time mentioned in paragraph 7, His Majesty's Government will have to consider to whom the powers of the Central Government in British India should be handed over on the due date, whether as a whole to some form of Central Government for British India or, in some areas, to the existing Provincial Governments, or in such other way as may seem most reasonable and in the best interests of the Indian people.'

The first part of the statement was hailed by Pundit Nehru as bringing 'reality and a certain dynamic quality to the present situation in India', and as removing 'misconception and suspicion'. The second part was construed by Mr. Jinnah as conceding the demmand for Pakistan. There can be little doubt that it did add to the strength

of Muslim League separatism. The Congress Working Committee also considered the statement of February 20, and welcomed the definite intention of His Majesty's Government to transfer power finally to the Indian people and to take steps in that direction. It further reiterated its acceptance of the statement of May 16, 1946, and the interpretation put upon it by the British Government in their announcement of December 6, and invited the Muslim League to nominate its representatives to meet the representatives of the Congress to consider the situation and devise the means to meet it. The League ignored the invitation.

The Recall of Lord Wavell and the Statement of June 3. — It need hardly be pointed out that the Muslim League found great encouragement in the statement of Mr. Attlee that when the time for handing over power to people of India would arrive, His Majestyis Government would consider whether power would be transferred to some form of Central Government as a whole or in some areas to existing Provincial Governments. It therefore became even more intransigent than before ; and thinking that power would be transferred to those who happened to be in actual possession of it at the time of withdrawal, it began a mad struggle to acquire power in the Punjab, the N. W. F. P , and Assam. It is not necessary to describe the tactics adopted by the League in all these provinces ; It should be sufficient to say that its attempts led to serious communal disturbances in various parts of the Punjab and the N. W. F. P., and to a so-called campaign of civil liberties in Assam. The Governor of the Punjab was believed to be partial towards the League, but he failed to instal a League Ministry in the province where Section 93 had to be applied on the resignation of the Coalition Government.

These ugly developments probably led the British Goverument to recall Lord Wavell and replace him by Lord Louis Mountbatten as the Viceroy and Governor General of India. An annuncement to this effect was made by Mr. Attlee on February 20, 1947. Lord Mountbatten was sworn in as the Viceroy on March 23.

Immediatelly after his arrival in India, Lord Louis Mountbatten applied himself to the task for which he was commissioned ; namely, to arrange for the transfer of power to responsible Indian leaders in the smoothest and quickest way. He brought to bear upon it a fresh mind and outlook. He spent day after day in holding consultations with as many of the leaders and representatives of as

many communities and interests as possible. He held several talks with Mahatma Gandhi and with Mr. Jinnah. In these talks and consultations he endeavoured to acquaint himself with their points of view and opinions, and urged upon them the necessity of unreservedly accepting the Cabinet Mission Plan of May 16. But he soon realised that it was impossible to obtain their agreement either on the Cabinet Mission Plan or any other scheme that sought to preserve the unity and integrity of India. As there could be no question of coercing the Muslims to live under a system of government in which the Hindus would have a predominant position, it was clear that partitioning the country was the only way to solve the problem. But it also became clear that, consistently with the declaration of the Cabinet Mission— 'nor can we have any justification for including within a sovereign Pakistan those districts of the Punjab and of Bengal and Assam in which the population is predominantly non-Muslim'— and because of considerations of fairplay, the demand of the Congress and the Sikhs for the division of the Punjab and that of the Hindu Mahasabha and the Congress for the division of Bengal could not be rejected. Every argument that could be used in favour of Pakistan could be applied with equal force and justice to exclude the non-Muslim areas of the Punjab and Bengal from Pakistan. Pandit Jawahar Lal is reported to have said that the Muslim League could have their Pakistan provided they did not claim anything more than what they were entitled to on the population basis. Dr. Rajendra Prasad, President of the Constituent Assembly, in the course of an interview declared that if there was to be the division of India, then it should be as camplete and thorough as possible, so that there may be no occasion for any sort of dispute or conflict in the future, and 'if that requires division of the defence forces, that should also be brought about, and the sooner, the better.'

The line of argument appeared unassailable to Lord Mountbatten. Mr. Jinnah had to give way and accept a mutilated Pakistan, though he was vehemently opposed to the move of partitioning Bengal and the Punjab. He denounced it as a move 'actuated by spite and bitterness'. It seems that through the mediation of Lord Mountbatten the details of the division were settled between the Congress and League leaders. Lord Mountbatten left for England on May 18, to hold final discussion with His Majesty's Government. He returned on June 2, and a statement

was issued on June 3 containing the proposals for the transfer of power to one or two successor governments.

The Statement of June 3, 1947, is an announcement possessing great importance and therefore, deserves more than a passing notice. We shall state the main and operative part of it.

It referred to the hope of His Majesty's Government that the two major Indian parties would co-operate in working out the Cabinet Mission Plan of May 16, 1946, which remained unfulfilled, because the Muslim League members elected from the Punjab, Bengal, Sind, etc., did not participate in the work of the Constituent Assembly. Though it was not the intention of His Majesty's Government to interrupt the work of the Assembly, they could not apply the constitution framed by the Constituent Assembly to those parts of the country which were unwilling to accept it. The Statement laid down the procedure to be adopted for ascertining the wishes of such areas on the issue as to how the constitution for them was to be framed. The procedure is stated in paragraphs 5–13 of the Statement. It may be summed up as under :

The Legislative Assemblies of Bengal and the Punjab (excluding the European members) were to meet each in two sections or parts, one representing the Muslim majority districts and the other the rest of the province. (The names of the Muslim majority districts in both the Provinces were set forth in the Statement itself.) Each part was to decide by a simple majority whether the province was to be partitioned or not. If either part were to decide in favour of partition, division was to be made accordingly. If partition of the Province were decided upon, each part of the Assembly was to determine if it would like to join the Constituent Assembly functioning at Delhi, or a new and separate Constituent Assembly consisting of representatives of those ares which decided not to participate in the existing Assembly. It may be mentioned in passing that the Hindu members of the Bengal Assmbly voted for the partition of Bengal on June 20, and those of the Punjab Assembly voted in the same manner three days later. One can say that whereas the *national* Muslim minority decided to divide the *country,* the *provincial* Hindu minorities decided upon the division of the *provinces.*

The Legislative Assembly of Sind was to decide at a special meeting whether Sind *as a whole* was to join the Constituent Assembly at Delhi or a new Constituent Assembly of areas which decided not

to join it. It voted for Pakistan on June 26.

Assam is a non-Muslim Province, but one of its districts, namely, Sylhet, is contiguous to East Bengal and is predominantly Muslim. There was a demand that in the event of the partition of Bengal, a referendum should be held in it to decide whether it should remain a part of Assam or it should be amalgamated with the new province of East Bengal. The people of Sylhet decided to join the new province of East Bengal.

A special procoedure was recommended for North West Frontier Province. A referendum was to be made to the electors of the Provincial Legislative Assembly to choose whether to join Pakistan or to remain in the Indian Union. The referendum was to be held under the aegis of the Governor General and in consultation with the Provincial Government. The decision was not left to the Provincial Assembly as it was left in the case of the Punjab, Bengal and Sind. The referendum was held between July 6 and July 17. It was boycotted by the Congress. The electors decided in favour of Pakistan. British Baluchistan also opted in favour of Pakistan on June 29.

Another thing of great importance in the Statement of June 3 was the fact that it brought the date of the transference of power from British to Indian hands much nearer than the one fixed by the Statement of Febuary 20. The following is the operative part of paragraph 20. 'The major political parties have repeatedly empnasised their desire that there should be the earliest transfer of power in India. With this desire His Majesty's Governmant are in full sympathy...... As the most expenditious, and indeed the only practical, way of meeting this desire, His Majesty's Government propose to introduce legislation during the current session for the transfer of power this year on a Dominion Status basis to one or two successor authorities.........'

The Indian Indepence Bill was passed by the British Parliament without a division and with a speed unprecedented in British history. It was in accordance with the provisions of this Act that the two separate and independent Dominions of India and Pakistan came into existence on the 15th of August 1947, at zero hour.

The All India Congress Committee met at Delhi on June 14 and 15 to discuss the Statement of June 3 ; and even though the Congress had laboured hard since its inception for the realisation of

a free and *united* India, it accepted the proposals embodied in the Statement. It would not be out of place briefly to discuss the reasons which seem to have led the Congress to accept the partition, and to appraise them.

Partition Inevitable.—The division of the country into India and Pakistan was inevitable and unavoidable. It was the logical conclusion of the policy of *divide and rule* which the British rulers had beeen following for about a century since the unsuccessfull War of Independence of 1857. It was also implicit in the feeling of separationism which had been inculcated in the minds of the Muslim masses by the Muslim League since its birth in the first decade of the present century. It was also implied in the Congress declaration that it could not think 'in terms of compelling the people in any territorial unit to remain in an Indian Union against their declared and established will.' The British Government were committed to it by their various statements and pledges. The declaration of February 20 was a promise of Pakistan to the League. The Congress had no alternative but to accept the inevitable. But what really compelled the Congress leaders to agree to the vivesection of the country was the realisation on the part of the Congress members in the Interim Government that the Anglo-Muslim alliance was doing great mischief and that Indian interests were being betrayed by the British bureaucrats in every department of the state. Referring to the way in which the Political Department was behaving Sardar Patel gave expression to this feeling in the following words : 'It was then that I was made fully conscious of the extent to which our interests were being prejudiced in every way by the machinations of the Political Department, and came to the conclusion that the best course was to hasten the departure of these foreigners even at the *cost of the partition of the country*. It was also then that I felt that there was one way to make the country safe and strong and that was the *unification of the rest of India*'. In the speech which he delivered at the special Convocation of the Banaras Hindu University Sardar Patel again referred to the matter in the following words : 'I felt that if we did not accept partition, India would be split into many bits and would be completely ruined. My experience of office for one year convinced me that the way we have been proceeding would lead us to disaster. We would not have had one Pakistan but

several. We would have had Pakistan cells in every office.'*

In this connection it is interesting to note that the Muslim League members of the Interim Government were driving out Hindu and Sikh officers from key positions in their Departments and putting in their places Muslims who could be depended upon to promote the cause of Pakistan. The representative of the Amrit Bazar Patrika sent a message to his paper during the second week of May 1946, that inside information available to him showed that Delhi might soon be made the centre of *direct action* on the lines witnessed in the Punjab and the N. W. F. P. In the light of such developments Congress leaders could not come to any decision other than the one they arrived at; namely, the acceptance of Pakistan in order to drive out the foreigner and save the country from further ruin. Let all those who shed crocodile tears over the dismemberment of the country and talk sentimentally of 'Akhand Hindustan' ponder over the conditions and weigh the evidence of persons like Sardar Patel before condemning the Congress decision in an unthinking manner. The force of circumstances led even Mahatma Gandhi to agree to the division, opposed as he was to it from the start.

We think that inspite of the uprooting of millions of men and women from their ancestral hearths and homes and untold and unspeakable sufferings and hardships which a large section of our compatriots in the Punjab and N. W. F. P., Sind and Bengal had to undergo, the partition of the country was a blessing in disguise. It can be regarded as a blessing in so far as it was responsible for the exit from the Indian Union of a group of persons whose extra-territorial sympathies and intensely communal outlook were proving a great stumbling block in the way of our progress. Just as no sensible person weeps over the amputation of a diseased limb in the interest of the preservation of his life and health, we also should not bewail the separation of a part of our countrymen from us; the partition of the country may be regarded as a sort of surgical operation that had become necessary to save the motherland from further bloodshed and anarchy.

In the second place, the Constituent Assembly has abolished the vicious system of separate communal electorates root and branch; it had also bidden good-bye to the system of reservation of seats

*Quoted from the Indian Annual Register : January-June 1947, page 112 (e).

except for the Scheduled Classes for a period of ten years; it has adopted Hindi written in Devanagri script as the national language, and has made provision for a strong and powerful central government. Can any one maintain that these decisions could have been arrived at by the Constituent Assembly if the Muslim League members had participated in its proceedings and assisted in the framing of a constitution for the whole of India ? One should not forget the clause in the Cabinet Mission Plan of May 16 which prescribed that no decision on any communal issue could be taken unless a majority of the members of each community supported it. This clause would have effectively barred the way against the abolition of separate communal representation and the adoption of Hindi in Devanagri script as the *lingua franca.* We feel inclined to regard the division of the country as a divine dispensation designed to rid it of undesirable elements. In any case it should be remembered that the division was not imposed upon us by any outside authority and against our will; it was freely accepted by our accredited leaders as the price for the welfare of the people and immediate independence. The words of Sardar Patel quoted above should always be kept in mind.

With the passing of the Indian Independence Act by the British Parliament in July 1947 and the coming into being of the Dominion of India (and the Dominion of Pakistan) on the 15th of August our story of the growth of the national movement comes to a natural end. The Indian National Congress achieved its objective of freeing India from bondage to the foreign yoke (even though it could not secure a free and *united* India). It is still engaged in the task of securing for the masses freedom from poverty and the effort to liquidate illiteracy. The success achieved in this sphere after the advent of Independence has been meagre; into the causes of this paucity of results and into the difficulties in the way of the National Government this is not the place and the occasion to enter. We shall conclude our review with a brief reference to the provisions of the Indian Independence Act and the martyrdom of Mahatma Gandhi.

The Indian Independance Act of 1947.—It is an exceedingly simple and brief Act. It contains not more than twenty sections and three schedules. It is simple because it was not designed to expound or explain the policy or intentions of the British Parliament in regard

to India but was merely an enabling measure. Its main provisions may be summarised as follows :—

It provided for the setting up of the two independent Dominions of India and Pakistan with effect from the 15th of August 1947, and demarcated the territories of each. The division of the Punjab and Bengal was to be effected in accordance with the recommendations of the Boundary Commission to be set up for the purpose. As the Commission failed to come to any unanimous conclusion, the division was made according to the award given by its chairman. Each Dominion was to have a Governor-General to represent His Majesty for the purposes of its government, but he was to be a constitutional head acting on the advice of his popular ministers. He was to be appointed by the King. As the usual method of appointing the Governor-General of a Dominion on the recommendation of its Government could not obviously be resorted to in the case of India and Pakistan, the Viceroy consulted the leaders of the Congress as to whom they would like to have as the Governor General of India, and the leaders of the Muslim League about the Governor-General of Pakistan. The persons recommended by these two parties were appointed as the Governors General of the two new Dominions.

Each Dominion was to have a fully sovereign legislature. It was given full powers to make laws for the Dominion. No Act passed by the British Parliament after the 15th of August, 1947, could apply to either Dominion unless it was extended thereto by a law of its own legislature. The right of His Majesty to disallow any bill passed by the legislature of either Dominion was given up, and the Governor-General had full powers to assent in His Majesty's name to any bill passed by it. The powers of the Legislature in each Dominion were to be exercised by its Constituent Assembly. The Act thus made the Constituent Assemblies in the two Dominions fully sovereign bodies (which they were not in terms of the Cabinet Mission Plan). Until the constitution prepared by each Constituent Assembly came into force, each Dominion was to be governed as nearly as possible in accordance with the provisions of the Government of India Act of 1935, subject to such omissions, anditions, and adaptations and amendments as might be made by the Governor-General.

Since each Dominion was to have full responsible government

on parliamentaay lines, the control of His Majesty's Government in Great Britain over the Government of India or Pakistan ceased to exist after the 15th of August. Its responsibilities for the administration of Indian affairs thus came to an end. Paramountcy of the Crown over the Indian States was also to lapse from that date; and with its lapse all treaties and agreements entered into between the British Crow and the States and all the obligations of His Majesty towards the Rulers of the States came to end. The paramountcy was not however transferred to the governments of the new Dominions. In short, the Indian States became independent. They however could not, and were not expected to, remain islands cut off from the rest of India. It was hoped that they would join either Dominion on terms to be settled by them.

The Character of Indian Nationalism—We would conclude this rather long account of the way India achieved her freedom from British control with a few words about the character of Indian Nationalism.

In one respect our movement is unique in the world. History does not record any other instance in which a subject poeple have achieved freedom from foreign bondage without shedding the blood of their opponents ;radical changes in the political history of the world have always been associated in the past with great violence. India has demonstrated to the world for the first time that a great and mighty revolution can be wrought by non-violent and peaceful means. This means that our national movement was of vital interest not only to us, but was also of great concern to the world at large. Humanity witnessed the discovery and perfection of a new technique of political revolution which produced something like a miracle. When India and England parted, they parted as friends. Gandhiji was the architect not only of a new India, but also of new relations with England. To win freedom from a nation is a great thing, but to win that nation in the process is something much greater. And this is what Indian nationalism achieved.

This feature of Indian Nationalism is inseparably connected with its spiritual basis. In Chapter III we laid stress on the point that the national movement and the various religious and social reform movements which arose in our country in the last century form part of the great spiritual renaissance of India. The spiritual character was impressed upon it by Raja Ram Mohan Roy, Swami

Dayanand Saraswati, Swami Vivekanand, and above all, by Mahatma Gandhi, who shaped, moulded and guided it from 1919 onwards. It was under his leadership that the Congress adopted *Satyagraha* or non-violence as its method.

The stress on non-violence or *satyagraha* as the means of securing national freedom and the spiritualisation of politics which it entailed have been responsible for some other features of our struggle for freedom. It began as a middle class movement, but developed into a mass movement under Gandhijee who always aimed at the unity of all classes and communities in the struggle. Secondly, it led to the emphasis on the constructive programme which included hand-spinning and the encouragement of khadi, promotion of communal harmony, removal of untouchability, and temperance or abolition of the drink evil. In other words, the national movement in India was not confined to the political sphere alone; it embraced social, religious, economic, and educational spheres as well. It thus aimed at the all-round uplift of the nation. One of its most significant results is the emancipation of the Indian women, and the abolition of untouchability. It is not everywhere that political movements issue into social and economic reforms.

It may also be pointed out that the foreign policy of the Government of India which has steered clear of getting involved in power politics and looks at all international problems with the sole purpose of promoting peace, prosperity and friendliness in the world is the logical issue of the stress on non-violence and the identity of means and ends on which Mahatmajee laid emphasis all his life.

Finally attention may be drawn to what Mahatma Gandhi said at the Round Table Conference in regard to the importance which Congress attaches to the welfare of the masses. The passage will be found quoted in full in the section on Mahatma Gandhi in Chapter XII. The uplift of the masses and of the untouchables have been an important concern of the Congress throughout the Gandhian era and after Independence.

CHAPTER XI

Communalism in Indian Politics

Introductory—What has been said in the preceding chapter about the causes of the failure of the Simla Conference called by Lord Wavell in 1945, the difficulties encountered by the Cabinet Mission in the formation of the Interim Government, and the division of the country into the two independent states of India and Pakistan, is sufficient to indicate the obstacles put by the demon of communalism in our constitutional advance. The British Government always used the differences between the Hindus and the Muslims as an excuse for withholding the transfer of power to Indian hands. What happened at the second session of the R. T. C., and the way in which Lord Linlithgow put the power of veto in the hands of the minorities in his statement of August 8, 1940, are clear proofs of it. It is therefore necessary to study this question in some detail here, even though it is an old story now.

Nature of the Problem—The communal problem was generally described as the Hindu-Muslim question or the Hindu-Muslim-Sikh question. This mode of designating it is seriously misleading. It suggests that the problem was wholly or mainly religious. It also implies that the Hindus and the Muslims and the Sikhs were the only parties concerned. Both these ideas, though widely prevalent, are wrong. The communal problem was more political than religious; it was *chiefly* political though it masqueraded under a religious garb.*

* It is interesting to note that the Simon Commission also came to the conclusion that communal tension 'is a manifestation of the anxieties and ambitions aroused in both communities by the prospect of Indian political future. So long as authority was firmly established in British hands and self-government was not thought of, Hindu-Muslim rivalry was confined within a narrow field—there was little for members of one community to fear from the predominance of the other. The comparative absence of communal strife in Indian States to-day may be similarly explained. Many who are well-acquainted with conditions in British India a generation ago would testify that at that epoch so much good feeling had been engendered between the two sides that communal tension as a threat to civil peace was at a minimum. But the coming of the Reforms and the anticipation of what may follow them have given new point to Hindu-Muslim competition. Very naturally, the Simon Commission would say nothing about the role of British Imperialism in fostering the communal tension.

British Imperialism had been as important a factor in shaping and determining its growth as the clash of political interests between the Hindus and the Muslims. Those who looked upon the problem as rooted in religious differences between the Hindus and Muslims and took no notice of the vital role played by British imperial interests could not view it in a proper perspective. They started from wrong premises and arrived at wrong conclusions with regard to its remedies. The real problem was how to adjust and satisfy the conflicting claims to a share in *political* power made and pressed by the various communities and classes inhabiting India,—by Hindus, Muslims, Sikhs, Christians, Anglo-Indians, Europeans, landholders, industrialists, labour, and those engaged in commerce. The attitude adopted by the British Government not only encouraged some communities to pitch their demands very high, it also made the solution of the problem by mutual agreement between the communities almost impossible. The contest in India lay between the forces of nationalism as represented by the Indian National Congress, the spirit of communalism as embodied in the Muslim League, the Hindu Mahasabha, etc., and British Imperial interests. There was thus a communal triangle in our country of which British imperialism formed a very important side or arm. This is the main thesis of a very interesting book called *'The Communal Triangle in India'* by Asoka Mehta.*

Origin of Communalism—The spirit of Communalism which invaded Indian politics was the resultant of the interaction between two factors: one, the effort of an insurgent Indian nationalism to throw off the foreign yoke, and the other, the struggle of British Imperialism against this rising force. In the absence of either of these two forces the phenomenon as it existed in our country till 1947 would not have arisen at all. Of these two factors British Imperialism was the older in the field and stronger. Indian nationalism became self-conscious and assertive at a later date. When it reared its head and became a power to be reckoned with the former tried to checkmate it by counterpoising one eommunity in the country by the other, and thus produced the monster of communalism which soon became the bane of Indian politics. This much must, of course, be admitted that British Government accentuated and exploited the differences between the Hindus and the Muslims which already

* Published by Kitabistan, Allahabad.

existed. It cannot be said to have created them out of a void. For our misfortunes we were thus partly to blame. Let us see how the British Government exploited our differences and created the communal problem.

The British statesmen realised at a very early date that the only way to save the small number of Britishers in India from being overwhelmed by the teeming millions of the country and to secure the safety and stability of British rule was to keep the various communities apart from one another and prevent them from uniting in a common effort to overthrow foreign rule. The policy of 'divide and rule', of turning the communities of India one against the other and preventing the welding of them into a single nation, has always been the corner-stone of British administration in this country. Mountstuart Elphinstone, one of the Governors of Bombay during the rule of the Company, wrote as follows : '*Divide et impera* was the old Roman motto, and it should be ours.' Well-versed in this policy 'the British soon after their arrival in India made ready to apply its strategy to the situation in this country. The two great communities of India, the Hindus and the Muslims, had evolved an attractive pattern of co-operation, not unmixed, naturally, with occasional notes of discord. With all their famed skill, which until recently had made their diplomacy the most powerful in the world, the English rulers decided to put themselves between the Hindus and Muslims and so create a communal triangle of which they would remain the base.'* It is instructive to note how the British Government gave effect to their policy of counterpoising one community by the other.

The effects of this policy first became manifest in the reorganization of the Indian Army effected after the Rebellion of 1857. Before that time Indians stood mixed up in the ranks of the regular forces. There was no division or separation by caste or clan. The Hindus and the Muslims, the Jats and the Sikhs, and the Poorbeas were mixed up so that each and all lost to some degree their racial or sectarian prejudice and developed a rare spirit of *camaraderie* or *espirit de corps*. It was the sentiment of unity thus created which made the rising of 1857 possible. The reorganization destroyed this sentiment of unity. Regiments, battalions, and companies came to

* Ashoka Mehta and Achut Patwardhan : *The Communal Triangle in India*, Page 52.

be based on sectarian, caste and class distinctions. To-day we have the Sikh regiments, the Dogra regiments, the Gurkha regiments, the Jat regiments and so on. This new basis developed class consciousness and stood in the way of the growth of national feeling.

Outside the army effect was given to the policy by encouraging the one and suppressing the other community. It was the Mohammedan community which the British Government were determined to suppress, for they felt that the Mutiny was largely instigated and engineered by members of that community. The Moslems were deliberately excluded from the Army and the Government services, while the Hindus were shown every preference. It has been computed that in 1871 out of a total of 2141 persons in the employment of the Bengal Government there were only 92 Muslims as against 711 Hindus nnd 1338 Europeans.* Efforts were made to ruin the Muslims economically and educationally. The Permanent Settlement of Bengal seems to have been made with that end in view. It enriched the Hindus at the cost of the Mohammedans. But forces were at work which brought about a change in the attitude of the British Government towards the Muslims. Sir Syed Ahmad Khan tried his best to show that the suspicions of the Government were unfounded and endeavoured hard to bring about a *rapprachement* between his community and the Government. In this he was eminently successful. The political situation in the country was very much in his favour. There was a good deal of political awakening in the country. The Indian National Congress had come into existence and begun to criticise the policies of the Government. Muslim leaders like Allama Shibli Numani, Maulana Rashid Ahmad Gangohi and Maulvi Lutfullah of Aligarh advocated common cause with the Hindus. In a speech delivered at Gurdaspur in 1884, Sir Syed Ahmad Khan uttered the following words : 'We (meaning Hindus and Mohammedans) should try to become one heart and soul and act in union. If united, we can support each other ; if not, the effect of one against the other would tend to the destruction and downfall of both.'† Speaking on another occasion he remarked that Hindus, Muslims, Christians and all others who lived in India belonged to one and the same nation, and asked his audience to remember that the words

* Ibid, page 85.

† Quoted by Gurmukh Nihal Singh, *Landmarks in Indian Constitutional and National Development*, pages 372—3.

Hindus and Mohammedans were meant oniy to mark religious distinction and in no way implied that all Indians living in the country did not belong to the same nation.* The growth of such a sentiment could never be welcome to the foreign government which, in order to maintain its stability, found it necessary to take steps to prevent the Muslims from joining the national movement. It reversed its attitude towards the Muslims, decided to patronise them and suppress the Hindus. In keeping the Muslims of Northern India away from the Indian National Congress Mr. Beck who had come over to Aligarh as the first English Principal of the newly started M. A. O. College, played a very important role. He had great influence over Sir Syed Ahmad, and made the great Muslim leader oppose in his old age the proposals he had advocatad for the greater part of his life. Mr. Beck was a great empire-builder; he helped empire-building by successfully keeping the Muslims away from the national movement.

The Muslim demand for Separate Electorates and the Establishment of the League—Though the Muslims of Northern India did not join the Congress, they had as yet no separate organization of their own which could be used by the British Government as a counterpoise to the Congress. The manner in which communal electorates and the League came into existence throws a flood of light upon the working of the British policy of counterpoise and its method of setting one community against the other. To its study we now turn.

To allay the discontent roused in the country by the administration of Lord Curzon, Lord Morley, the then Secretary of State for India, suggested to the Government of India that the time was appropriate for introducing further reforms in the popular direction.† Steps were accordingly taken to impiement the idea. This was in 1906. Mr. Archbold who had succeedeh Mr. Morison as the Principal of the M. A. O. Collcge, wrote a letter to Nawab Muhsin-ul-Mulk, successor to Sir Syed as leader of the Muslim community and President of the College, elaborating the idea of sending a deputation to wait upon Lord Minto. He informed Nawab Saheb that the Viceroy was agreeable to receive the Muslim deputation, and suggested that it should consist of representative Muslims from different parts of India. He also

* Vide Wilfered C. Smith, *Modern Islam in India*, page 18.

†Some writers believe that the proposal for reforms came from Lord Minto.

mentioned that the address should express sentiments of loyalty to the Crown, show grateful appreciation of the step the Government wanted to take by introducing further reforms, and *express the apprehension of the Muslim community that if the principle of election were introduced without conceding separate representation to the Muslims it would prove detrimental to their interests.* The idea of communal representation thus did not originate with the Muslims : it had its inspiration in other quarters. The late Mr. Ramsay Macdonald, an ex Prime Minister of Great Britain, has recorded the opinion in his *Awakening of India* that the agency responsible of the demand for separate communal representation as well as for its introduction was British officialdom. The Deputation that waited upon Lord Minto was, in the language of the late Maulana Mohammad Ali, a 'command performance.' It was organised from Simla. It is not necessary to reproduce here the details of the address presented by the Deputation to the Viceroy and believed to have been drafted by Mr. Arohbold himself. It is sufficient to say that it demanded the following things for the Muslims : separate electorates, weightage in the reformed legislature, greater representation in the services, help in founding a Moslem University, and protection of their interests in case an Indian was appointed to the Executive Council of the Governor-General. In his reply Lord Minto said that he found himself in entire accord with the general position of the deputationists and assured them that his administration would safeguard their political rights and interests. His words are worth quoting. He said : 'You point out that in many cases, electoral bodies as now constituted, cannot be expected to return a Muslim candidate, and if by any chance they did so, it would only be at the sacrifice of such candidate's views to those of a majority opposed to his community, whom he would in no way represent : and you justly claim that your representation should be estimated not on your numerical strength, but in respect to the political importance of the community and the services it has rendered to the Empire. I am entirely in accord with you.' It would thus appear that Lord Minto was the real author of this vicious system of communal representation. It is important to remember that the demand for separate electorates was opposed by Lord Morley himself who proposed a scheme of joint electoral colleges for the election of all the candidates belonging to different

classes and communities. It was also condemend by the *Statesman* of Calcutta which was a habitual supporter of the Government. Nationalist opinion in the country was vehemently against it on the ground that it would widen the gulf between the Hindus and the Muslims and retard the growth of the national spirit. But the Indian bureaucracy and its supporters in England proved too strong even for Lord Morley, who yielded and the principle was incorporated in the Morley-Minto Reforms Scheme. The observation of Ramsay Macdonald that the 'Mohammedan leaders are inspired by certain Anglo-Indian officials, and that these officials have pulled wires at Simla and in London and of malice aforethought sowed discord between the Hindu and the Mohammedan communities by showing the Muslims special favours,' is true cent per cent. It would also interest the reader to learn that in his early days Mr. Jinnah, the author of Pakistan and the two-nation theory, was strongly opposed to separate electorates. He was the mover of a resolution condemning this vicious principle at the Allahabad session of the Congress held in 1910. The resolution was supported by Maulvi Mazhar-ul-Haq, a staunch nationalist leader of Behar.

The Muslim League :—The success of the Simla deputation encouraged those who took part in it to start a separate organisation of the Muslims. Invitations were issued for a conference to be held at Dacca in December 1906, and the All-India Muslim League was formed there. Its founders were a group of well-to-do and aristocratic Mohammedans. Their intention 'was to keep the Muslim intelligentsia and middle classes away from the dangerous politics into which the Indian National Congress was then embarking.'* The Constitution of the League defined its aims and objects thus :—

'(1) To promote among Indian Moslems feelings of loyalty towards the British Government and to remove any misconception that may arise, as to the intentions of the Government with regard to any of its measures : (2) to protect the political and other rights of the Indian Moslems and to place their needs and aspirations before the Government in temperate language ; (3) so far as possible, without prejudice to the objects mentioned under (1) and (2), to promote friendly relantions between Moslems and other

*Humayun Kabir, Muslim Politics : Page 2.

communities of India.'

In its inception the League was thus a communal body which it remainedthrough out its entire chequered career. The Muslim League was intended, and it has always tried, to look after and promote the political rights and interests of one particular community and not those of the people of India in general. It was also born as a loyalist body. Its aim was to promote feelings of loyalty towards the British Government among the Indian Moslems and not to foster the sentiment of patriotism and nationalism among them. These features clearly reveal the influence of Mr. Archbold, the then Principal of the M. A. O. College, and a few British officials who were mainly interested in seeing that the Hindus and the Moslems did not develop any comradeship.

It should be remembered that as thus constituted the League did not command universal support even among the Muslim intelligentsia Mr. Jinnah was opposed to its communal character. Nawab Syed Mohammad refused to have anything to do with it. Maulana Shibli Naumani trenchantly criticised its policy. Maulana Mohammand Ali started an English paper called the *Comrade* and an Urdu paper named *Hamdard* from Delhi which vigorously attacked its communalism and loyalism. Maulana Abul Kalam Azad started a paper of his own from Calcutta called *Al Hilal* which aimed at infusing into the people of India a new spirit and a new enthusiasm. Partly as a result of these forces and partly on account of the events which were then taking place in Turkey and other Moslem countries and the attitude of Great Britain to them, and above all, because of the termination of the baneful influence exercised by the British Principals of the M. A. O. College, Aligarh, over the political opinions and activities of the Muslims, a great change was visible in Muslim politics. Progressive leaders like Maulana Mohammed Ali, Maulana Mazhar-ul-Haq, Syed Wazir Hussain, M. A. Jinnah and Hassan Imam favoured a change in the constitution of the League on progressive and patriotic lines so as to bring it in line with the creed of the Congress. Accordingly its constitution was amended in 1913. Promotion of friendship and union between the Mussalamans and the other countries of India and the attainment of self-government suited to Indian requirements under the aegis of the British Crown were included in the aims and objects of the

League. This change paved the way for common action with the Congress. Mr. Jinnah took the next important step by inviting the next session of the League to Bambay where the Congress was to meet for its annual deliberations. Thenceforth for several years the two bodies held their sessions at the same place. This enabled the two bodies to collaborate and formulate a joint scheme of post-war reforms. The result was the famous Congress-League Scheme adopted by the Congress and the League at their respective sessions held in Lucknow in 1916. Another important consequence of the step taken by Mr. Jinnah was that Congress leaders like Mahatma Gandhi, Pandit Madan Mohan Malaviya and Mrs. Naidu attended the League sessions in 1915, 1916 and 1917, and spoke from its platform in support of several resolutions. The League took on a nationalist hue. The President of its Calcutta session, the Raja of Mahmudabad, in his presidential oration spoke as follows : 'The interests of the country are paramount. We need not tarry to argue whether we are Muslims first or Indians. The fact is we are both, and to us the question of precedence has no meaning. The League has inculcated among the Muslims a spirit of sacrifice for their country as for their religion.'

This change from loyalism to nationalism was remarkable. It enabled the League formally to associate itself with the launching of the great Non-Co-operation movement by the Congress in 1920 to redress the Punjab and Khilafat wrongs. But the struggle on behalf of the Indian Moslems was carried on by the Khilafat Committee which had come into existence. and not by the League. It may also be pointed out that at that time the Muslim divines or Ulemas who had till then held aloof from active participation in Muslim politics on the ground that it signified nothing more than flattery and expression of loyalty to the powers that be, also threw their weight into the struggle. They organised the famous Jamiat-ul-Ulema-i-Hind which has been nationalistic throughout its career and has 'consistently used its great influence to crystallise Muslim opinion against foreign rule.'* Maulana Mohammad-ul-Hassan who was interned at Malta for anti-British activities during the War was its founder, After his death its leadership passed on to Mufti Kifayatullah. The Jamiat has consistently espoused the cause of Hindu-Muslim unity and supported the National Congress

* Mehta and Patwardhan, op. ct. page 37.

in its fight against British imperialism.

On account of the rise into prominene of the Khilafat Committee and the Jamiat and their great hold on the Muslim masses the League suffered an eclipse after 1920 and remained in a moribund condition for some time. Many of its members, however, secured government patronage and basked in the sunshine of official favour.

The Hindu-Muslim riots which broke out in the country after the withdrawal of the first Non-Co-operation movement by Mahatma Gandhi, the emergence of the Hindu Mahasabha with its twin programme of Shuddhi and Sangathan, and the reversion to the constitutional programme on the part of the Congress gave Mr. Jinnah an opportunity to revitalise the League. It should be remembered that Mr. Jinnah was a staunch Congressman at one stage, and that he left the Indian National Congress in 1920 when it renounced the method of political mendicancy and adopted the method of direct action. The League was revived, but Mr. Jinnah could not put life into its lifeless sessions. The appointment of the All-White Simon Commission was the occasion for a split in the League ranks. One section led by Mr. Jinnah was for boycotting it ; the other led by Sir Mohammad Shafee was in favour of co-operating with it. The two Leagues held their sessions at Calcutta and Lahore. The Jinnah section co-operated with the Congress and other political parties in the effort to produce an agreed constitution which was embodied in the famous Nehru Report. At the suggestion of the Shafee League a Muslim All Parties Conference was organised to consider the solution of the communal problem as suggested in the Nehru Report, which had recommended joint electorates with reservation of seats for the minorities. Inspite of the backing given by the Nationalist Muslims the Conference rejected the idea of joint electorates. This led to a schism in the Muslim ranks. The Nationalist Muslims formed themselves into a separate party. Hakim Ajmal Khan, Dr. M. A. Ansari, Sir Ali Imam, Sir Wazir Hassan, Dr. Syed Mahmud, Mr. Asaf Ali, Dr. Mohammad Alam, Dr. Saiffuddin Kichlew and Maulana Abul Kalam Azad were among the prominent Nationalist Muslims.

The result of the developments sketched above was that there were two distinct groups of Muslim politicians giving lead to the

Muslim community in two different directions. On the one hand, there was a group of well-to-do persons who, as usual, looked to the British Government for favours and jobs. The Government was not ungenerous in extending patronage to the members of this group who held positions of vantage in the administration of the country from where they could do some good to their friends and relations. Sir Fazli Hussain and Sir Muhammad Shafee were the leaders of this party. They controlled the Muslim League. The other group consisted of Nationalist Muslims who were members of the Indian National Congress. It was led by Hakim Ajmal Khan, Dr. Ansari and Maulana Abul Kalam Azad. As this group had no power and patronage, its influence on the Muslim middle class was weaker than that of the first, though it contained men of sterling character and talent. Mention should also be made of a third element. It consisted of the powerful Ahrar party in the Punjab and the Krishak Proja party in Bengal. The members of this bloc generally sympathised with the political aspirations of the Congress, but considered its economic policies and programme as halting and inadequate. They naturally could not co-operate with the League.

At this stage Mr. Jinnah found him self ploughing a lonely furrow. 'He could not fit in with the Moslem moderates, for politically he was too much influenced by Congress ideology. Nor could he merge with the Progressives among Muslims, for with his orthodox and conservative economic views, they seemed to him rank revolutionaries.'* He could not rejoin the Congress which he had left long ago and which was pledged to direct action. It is not surprising that he dicided to retire from Indian politics and proceed to England to practise law there. But Providence came to his help. During the space of a few years death removed from the scene of action notable Muslim politicians of all-India status. The passing away of men like Hakim Ajmal Khan, Maulana Mohammad Ali, Dr. Ansari, Sir Fazli Hussain, Sir Mohammad Shafee left the field free for Mr. Jinnah. He returned from England and assumed leadership of the League which he tried hard to put on a strong basis. The general elections of 1937 gave him an opportunity. Under his presidentship the League contested the elections to the various provincial legislative bodies but achieved moderate success only.

* Humayun Kabir : *op. ct.*, page 8.

In Muslim majority provinces like the Punjab, the North-West Frontier Province, Bengal and Sind the League was trounced by rival Muslim parties. In the N. W. F. Province the Congress defeated it: in Sind the Azad Muslim party led by Mr. Allah Bux came out victorious. In the Punjab the Unionist party under the leadership of Sir Sikandar Hayat Khan routed it, and in Bengal the Krishak Proja Party was returned as the single largest party among the Muslims. It was only in the Muslim minority provinces like the United Provinces and Bihar that the League candidates were generally successful against non-League rivals. The Congress helped the former as against the latter. It is computed that in all the provinces the League could win even less than 25% of the seats allotted to the Muslims. Out of 485 (according to some 487) Muslim seats, the League captured only 110. This shows that the League did not represent the general Muslim mind. Its fortunes were at a low ebb.

But as a result of the Congress refusal to accept office in the Provinces where it had a majority in the legislature and the breakdown of the Congress-League negotiations to form coalition ministries there developed a situation in which the League retrieved its lost position and achieved something which it never had before. It won the real confidence of the Muslims. In Bengal the Proja Party and the League combined under the leadership of Mr. Fazlul Haq who perhaps did 'more than anybody else in India to restore the prestige of the League and win for it support among the masses of the land.'* In the Punjab Sir Sikandar Hayat Khan joined the League and thus added to its power. As a result of this realignment of forces the League's prestige and influence stood very high in 1942. The developments in the Punjab after the passing away of Sir Sikandar Hayat Khan and the defection of Mr. Fazlul Haq in Bengal at an earlier date left the League weaker than it was two or three years ago.

But this decline was temporary; it gained fresh strength when the Congress was in the wilderness after 1942. The League succeeded in forming ministries in five provinces, of course, with the help of the British Governors. In the Punjab Col. Khizar Hyat Khan, who succeeded Sir Sikandar Hayat Khan as the Premier, joined the Muslim League along with his Muslim followers. In Bengal, the Governor succeeded in getting rid of Mr. Fazl-ul Haq and installing Khawaja Sir Nazimuddin, a Muslim Leaguer, in his place as Premier.

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* Humayun Kabir: *op. cit.* page 8.

A League Ministry under Sir Saadulla Khan came into existence in Assam, and another in the N. W. F. P. under Mr. Aurangzeb Khan. Sind also got a League ministry after the dismissal of Mr. Allah Bux by the Governor. These ministries were not so homogeneous and cent per cent League as were the Congress ministries before their resignation in 1939. Nevertheless, they gave to the League a status and a prestige which it had never enjoyed before. Mr. Jinnah also acquired a new and unprecedented individual authority : he became the Qaid-e-azam. The elections to the central and provincial legislatures held in 1946 demonstrated beyond doubt that the League had the support and backing of a very large section of the Muslim masses. This lent much support to its claim to be regarded as the *sole* representative of the Indian Muslims.

The League and the Congress—The relations between the two premier political organisations in the country have fluctuated with time. It will be recalled that the League was called into existence as a counterpoise to the Congress and with the object of keeping the Muslim intelligentsia away from its influence. This state did not endure for long. There was a change in the constitution of the League in 1913 which brought it into line with the Congress and led to coöperation between the two. But after the withdrawal of the first Non-Co-operation movement and the extinction of the Khilafat Committee, the two bodies drifted apart. There was, however, no hostility between them as yet. The Congress reverted to constitutionalism and there was little life in the League. With the schism between the Shafee and the Jinnah sections and the defection of the Nationalist Muslims the League fell into the hands of the moderates and reactionaries, and it relapsed into its pre-1910 state. When the Indian constitutional question was being discussed in England and the reforms of 1935 were in the making, the League became active under the leadership of Mr. Jinnah and showed eagerness to collaborate with the Congress. In 1934 it passed a resolution expressing its readiness to co-operate with other communities to secure such future constitution for India as would be acceptable to the country. In 1935 it condemned the Federal scheme as outlined in the Government of India Act of 1935 on the ground that it would thwart and delay indefinitely India's advance to self-government. In 1936 its President, Sir Wazir Hassan, made an impassioned plea for unity among all the communities of India. Mr. Jinnah himself was

looking forward to the League co-operating with the Congress; he saw no substantial difference between the programmes of the two bodies. It may be mentioned here that in the elections to the provincial legislatures held in 1937 Congress workers helped League candidates as against non-League Muslim candidates wherever they could. But the whole picture underwent a sudden and tragic change since July 1937 onwards. In place of co-operation there developed estrangement between the two organisations; the gulf between them widened with each passing year. The story of the way in which the two drifted in opposite directions is interesting and deserves to be told.

On the eve of the elections of 1937 a leading Muslim politician of U. P. who had thitherto belonged to the Congress deserted it as he thought it would be defeated in the elections and went over to the Muslim League with his following. He was mistaken; the Congress was victorious and formed the ministry. This gentleman asked to be taken back to the fold and also to be rewarded with a cabinet post. 'Very naturally, but perhaps unwisely, the Congress refused : as any British party in a like case would have done. The consequences were unfortunate, and to the English mind astounding. The Muslim League redoubled its attacks on the Congress, and on the strength of this and similar cases, accused it of being a totalitarian party which sought to monopolise power.'*

The case of the U. P. Muslim politician was symtomatic of a general problem. In a previous chapter we have shown that after the 1937 elections had been fought and won by the Congress, the problem arose as to how it was to use the majorities it had obtained It refused to accept office unless the Governors agreed to give certain assurances. Later on when it decided to shoulder the responsibility of administering the affairs of the provinces, the League expected an invitation from the Congress to form coalition cabinets. The Congress, however, came to the conclusion after much anxious deliberation that it should not form coalition cabinets with non-Congress elements. The reasons for this decision have been stated on page 355 above, But as it wanted to make the cabinets as broad-based as possible, consistently with its principles and policies, it asked the Muslim League members to sign the Congress pledge, become its members and share the responsibilities of office with it.

* **Brailsford: *Subject India*, page 83.**

It extended this invitation on the ground that the liberation of the country and the amelioration of the masses were not affected by religion, and therefore there could be no justifiable reason for such Muslims as accepted these two broad principles remaining outside the Congress fold. Mr. Jinnah himself saw no substantial difference between the League and the Congress. Furthermore, Congress also decided to establish contact with the Muslim masses and to appeal to them to strengthen its hands by becoming its members in large numbers, on the ground that it was a non-communal organisation and championed the cause of the poor and aimed at agrarian reform. The Muslim League interpreted these moves a directed against its very existence; and instead of accepting the hand of co-operation extended to it, it began to make venomous attacks upon its leadership and accuse it of pursuing exclusively Hindu policies. The Congress High Command was charged with being fascist and totalitarian, and the Congress itself was dubbed as a Hindu body out to crush all minor communities, specially the Muslim. It became the fashion to say that Muslims could expect neither justice nor fair-play under Congress Government. Violent language was used in describing what came to be called 'atrocities' perpetrated on innocent Muslims in Congress governed provinces. The League appointed a committee under the Raja of Pirpur to enquire into the 'numerous complaints of oppression and ill-treatment meted out to the Muslims.' The result was the Pirpur Report. There was another document of the same type known as the Shareef Refort which gave a long list of the disabities from which the Muslims suffered. One person went to the length of saying that the Muslims could think of no tyranny as greater than the tyranny of the majority. The Congress President offered to investigate into any concrete instances of the alleged 'atrocities', but the League never accepted the offer. It is not relevant to our purpose to go into the validity of these charges; only this much may be pointed out that no provincial Governor had anything to say against the way in which the Muslims and other minorities were treated by the Congress ministries. Had there been any truth in the charges brought by the League, the British Governors would not have kept quiet, but would have exposed the Congress. On the contrary, the Governor of U. P. recorded his opinion after retirement in 1939 'that in dealing with communal issues the ministers had normally acted with impartiality and a desire to do what was

fair'. Moreover, had there been any truth in these allegations, the Muslim members of the Congress Cabinets would have protested. Prof. Coupland also says that the Congress ministries did not lend themselves to a policy of communal injustice, still less of deliberate persecution. It is also interesting to note that the League which sought to proclaim to the world at large the so called 'atrocities' alleged to have been committed by the Congress during its 28 months' regime had not a word to say about the systematic manner in which the Muslims were harrassed and persecuted for several decades by the British Government until this policy was reversed in the eighties of the last century. Nor did it raise its voice against the brutal excesses committed by the British authorities on Indians in general and the Muslims of the N. W. F. P. in particular during the several campaigns of civil disobedience launched by the Congress.

The reactions of the Muslim League to the refusal of the Congress to share power with it went much beyond the frenzied outbursts; it decided to observe a 'Day of Deliverance and Thanksgiving' when the Congress Ministries resigned in 1939 on the war issue. League politicians began to condemn the Act of 1935 on the ground that it had completely failed to protect the Muslim interests. They began to dread the prospect of responsible government at the Centre, since it would transfer power to a permanent Hindu majority over Muslim majority provinces, and made up their mind to prevent it at all costs. Mr. Jinnah began to repudiate the very principle of parliamentary government on which the Act of 1935 was based. He said that majority rule presupposed a homogeneous community which did not exist in India. This was the beginning of the two-nation theory which developed later and ultimately led to the division of the country. If only a few Muslim Leaguers had been taken into provincial cabinets in 1937, perhaps the later history of India would have been somewhat different. It is, however, highly problematic whether there could have been genuine cooperation between the League and the Congress. The reasons which led the Congress to abandon the idea of coalition ministries were sound. This again shows that the communal problem was mainly political; it was given a religious garb by interested persons.

The League and the Government.— Besides the Muslims there were other minorities also in India; *e. g.*, the Untouchables, the Sikhs, the Indian Christians, the Parsis. The Parsis were numerically

the smallest, but they never demanded and special privileges or safeguards for themselves ; their contribution to national awakening and public life has been immense. The Indian Christians also never placed nny obstacles in the constitutional advance of the country. The Sikhs were a strong minority in the Punjab, and their demand for the same privileged treatment as was shown to the Muslims just though it was, complicated the communal problem in the province and made it almost insoluble. Under the leadership of Dr. Ambedkar the Untouchables also demanded separate electorates. But no other minority proved so intransigent and adopted such a negative attitude towards constitutional advance after 1939 as the Muslims under the banner of the Muslim League. The League ultimately succeeded in securing its objective in the shape of Pakistan, mainly because of the help and encouragement given by the third arm of the communal triangle in India, namely, British Imperialism. This point deserves some consideration.

In this connection the attention of the reader may be drawn to what was said on a previous page about the origin of the League as a body of loyalist Muslims designed to function as a counterpoise to the Indian National Congress. There was a change in its creed in 1913 and a *rapprochement* with the Congress resulting in the Lucknow Pact in 1916. The Government's reaction to it is highly significant. It rejected the administrative and constitutional reforms proposed in it, inspite of the fact that they were supported by all the parties in the country, but accepted the solution of the communal problem and made it the basis of the Reforms of 1919. The Government, however, criticised the apportionment of the seats between the Hindus and the Muslims in Bengal and suggested that the Muslims should have got 44 seats instead of the 34 allotted to them under the pact. This implied that the Muslims could always hope to get more liberal terms from the Government than from the Congress so far as representation in the legislatures, etc., was concerned. This was to sabotage the Lucknow pact. The Muslims soon began to agitate for a larger number of seats in the Punjab and Bengal while sticking to the weightage they got in other provinces. Instead of adhering to the Lucknow pact until it was replaced by a mutually agreed scheme, the Government encouraged the Muslims in their demands. The result was the notorious award of Ramsay Macdonald.

The *rapprochement* between the Congress and the League begun in 1916 continued for a number of years. While it existed the Government shelved the question of political reforms and concentrated attention on the economic problems. They also tried to win over the Muslims to their side by giving the Punjabi Muslims and the Pathans a greatly increased share in the appointments in the Indian Army. This tendency to placate the Muslims and give them a preferential treatment reached its high watermark during the Round Table Conference. Muslims were encouraged in their demand that they would not participate in the proceedings of the Federal Structure Sub-Committee unless the communal question was solved to their satisfaction. An examination of the terms of the Communal Award would show that the Government accepted all the demands of the Muslims. Such a course was dictated by their policy of checkmating nationalism by fostering communalism ; they estimated the importance of a community by its opposition to nationalism and its strategic importance to themselves. It is also worth noting that whenever the Government of India had to choose Muslims for any purpose, they always selected loyalist Muslims and completely ignored the nationalists. Attempts made by Gandhiji to secure the nomination of Dr. Ansari to the R. T. C. did not bear any fruit. The Muslim League thrived because of the patronage of the British Government.

The great and unexpected success of the Congress in the general elections of 1937 filled the Government with alarm and set them devising means to check its growing powers and meet the challenge it involved. Nothing could be more natural for them than to use the Muslim League as counterpoise to the Congress. The way in which Sir Sikandar Hayat Khan, Premier of the Punjab, surrendered to the Muslim League after having trounced it in the elections of 1937 can be explained only on the hypothesis that the Government changed their attitude towards Mr. Jinnah and wanted to make him their ally. The attitude adopted by Mr. Jinnah towards the release of Mahatma Gandhi and members of the Working Committee and the ending of deadlock confirms this hypothesis. The indecent manner in which Mr. Fazlul Haq was huddled out of office in Bengal by the Governor to make room for a League ministry and the dismissal of Mr. Allah Bux from office in Sind with a similar end in view point in the direction of a secret alliance between the League

and the Government. Lord Linlithgow could easily place a veto in the hands of the Muslim League over all constitutional advance in the country; and at a later date, Lord Wavell made full use of the intransigence of Mr. Jinnah in seeing that the Simla Conference ended in failure. It is thus clear that the Government backed the Muslim League in all the ways it could; and in return the League co-operated with the Government on all crucial occasions. But for this support and backing of the Government the League could not have afforded to reject the hand of co-operation extended by the Congress and insist upon the acceptance of absurd demands as a condition precedent to any understanding with the Congress.

Other factors.—It must also be admitted that, besides the hidden hand of British imperialism, there were other factors also which contributed to the phenomenal growth of the power and prestige of the Muslim League. Mr. Jinnah was a very astute and shrewd politician, he made the fullest use of his position as the undisputed leader of a strong and powerful minority whose help was sought by both the contestant parties, the Congress and the British Government. A less capable man would not have been able to exploit the situation to such a great advantage. According to Pandit Jawahar Lal Nehru the delay in the growth of a strong Muslim middle class enabled the League to work up and utilise the psychology of fear among the emotionally excitable Muslim masses. It raised the cry of 'Islam in danger', and propagated the idea that under Congress rule, which would be nothing but the rule of the Hindus under a disguise, the fate of the Muslims would be the fate of under-dogs. Such irrational appeals to the religious sentiments of the gullible Muslim masses went home and they rallied under the banner of the League in Hindu majority provinces. The propaganda and activities of the Hindu Mahasabha, which was brought into existence about a decade ago as a cultural organisation but had taken on a political hue, came very handy to the League in its crusade against the Congress. Mr. V. D. Savarkar, the President of the Mahasabha, preached 'an uncompromising doctrine of Hindu ascendancy', and declared that 'the only way to deal with the Hindu-Moslem schism was to insist that all India was Hindustan and that the Muslims must reconcile themselves to the status of a minority community in a democratic state which orders life by majority rule '*

*Coupland: *India, A Restatement,* page 186—7.

Little wonder that in the face of such declarations the Muslim masses should look upon the Muslim League as their own organisation and upon Mr. Jinnah as *the* Leader, as Qaid-e-Azam, and develop a separatist attitude. The contribution of these factors towards the growth of the power of the Muslim League was, however, much smaller than that of the direct and indirect encouragement given by the agents of British imperialism.

The Demand for Pakistan.—The year 1937 was a turning-point in the history of the Muslim League. It not only saw the beginning of a definite rupture between it and the Congress, but also witnessed the foundations of a new demand and a new theory being laid. The new demand was the demand for Pakistan; and the new theory was the theory that Muslims form a nation separate and distinct from the Hindus. Pakistan and the two-nation theory on which it is based germinated and developed between 1937 and 1940.

The idea of Pakistan as a separate national state of Indian Muslims is usually ascribed to the great poet, Mohammad Iqbal. At the Allahabad session of the Muslim League held in 1930 Dr. Iqbal spoke as follows : 'I have no hesitation in declaring that if the principle that the Indian Muslim is entitled to full and free development on the lines of his own culture and tradition in his own Indian homelands is recognised as the basis of a permanent communal settlement...... I would like to see the Punjab, North-West Frontier Province, Sind and Baluchistan amalgamated into a single state...... The formation of a consolidated West Indian Muslim State appeares to me to be the final destiny of the Muslim at least of North-West India.' But he also realised the danger inherent in the idea. Edward Thompson writes in his book, '*Enlist India fo Freedom*' that Dr. Iqbal declared in the course of an interview that the Pakistan plan spelled disaster to the British, the Hindus and the Muslims alike. It is not easy to explain why he advocated it from the presidential chair, if he felt convinced of its injurious character. The idea of Pakistan was taken up and propagated by a group of young Muslims in England under the leaderships of Chaudhri Rahmat Ali during the Round Table Conference. It is believed in many quarters that the scheme was financed by some British agency which was interested in the partition of India. It was brushed aside as 'chimerical and impracticable' by the Muslim spokesmen at the Round Table Conference, and nothing was heard about it for some years.

The idea began to develop and take shape in the minds of the Muslim League politicians after their disillusionment in 1937. They saw that separate electorates, statutory safeguards and even separate provinces had proved useless ; they began to realise that these artifices would not protect them from the rule of the Hindu majority in the Centre in an All-India Federation. They therefore began to assert that the Muslims were a separate nation and not merely a minority community. As a minority community they could never hope to obtain an equal status with the Hindus ; as a *nation*, however, they thought they were entitled to a separate homeland where they could develop their spiritual, cultural, economic, social and political life to the fullest in accordance with their own ideals and according to the genius of the people, and enjoy the right of self-determination. The areas in the north-west and north-east of India where they were in a majority constituted their homel and, and they should be consolidated into one or two coherent Muslim states, to be known as Pakistan. In the beginning, however, the Muslim League did not contemplate the division of the country into two sovereign and independent states ; it thought only in terms of autonomy for the Muslim state or states in a loose sort of Indian federation. In an article contributed to the *Time and Tide* in 1940 Mr. Jinnah wrote about the 'two nations in India who both must share the governance of their common motherland.' The use of the words '*share*' and '*common motherland*' clearly shows that Mr. Jinnah did not think of division of the country at that time. But a few months later the League adopted a resolution in its Lahore session demanding that the areas on the north-west and the north-east where the Muslims were in a majority should be constituted into an *independent* state. The formulation of the demand for an independent and sovereign Pakistan may therefore be said to date from the Lahore session held in 1940, which authorised the Working Committee of the League to prepare a plan by which the new State could assume full control over matters like defence, external affairs, communications, and customs.

The Indian National Congress was naturally opposed to the idea of Pakistan ; throughout its long history it had laboured and suffered for the freedom of the country as a whole. Muslims outside the League were equally opposed to it. Khan Bahadur Allah Bux condemned the scheme and the two-nation theory on which it was based in strong language. The Jamiat-ul-Ulmai-Hind, a body of

Muslim divines, the Majlis-e-Ahrar, the All-India Momin Conference, the Khudai Khidmatgars of N. W. F. P., the All-India Shia Conference and the Nationalist Muslims all denounced it. The Sikhs in the Punjab declared their determination to oppose it tooth and nail. The Cabinet Mission examined the scheme and declared it to be an impracticable proposition. It could not be regarded as an adequate solution of the communal problem either ; in the absence of a wholesale transfer of Hindus from Pakistan to India and of Muslims from India to Pakistan, communal minorities would have remained in both the states ; the conflict between them could not have become less intense in any way merely because of partition ; nay it could have become, as it actually became, more bitter. The two-nation theory on which the whole idea of Pakistan was based was as absurd, unsound and fantastic as anything could be. Most of the Indian Muslims are the descendants of Hindu converts to Islam. If in the course of a few generations such persons could become a nation altogether distinct from their Hindu compatriots inspite of having lived, enjoyed and suffered together for centuries on end, the whole science of sociology shall have to be re-written. There is no historic parallel to the claim of the League that the Indian Muslims constitute a nation separate and distinct from the Hindus. It is futile to base nationality on a religious basis. It is not necessary to labour this point further.

Nevertheless, inspite of the theoretic unsoundness and absurdity of the two-nation theory, inspite of the united and determined opposition of the Congress, the non-League sections of the Muslims in the country and the Sikhs, and inspite of the geographical, economic, cultural and historical unity of India which made any attempt to divide her into two separate and independent states an exceedingly difficult and unnatural task, Pakistan did become a reality and India had to be cut into twain involving millions of persons on both sides in unspeakable misery. The reasons which compelled the Congress to accept partition as an unavoidable evil have been set forth elsewhere ; they need not be repeated here. Only this much may be stressed that it could not have taken place without direct and indirect abetment and encouragement on the part of British imperial interests. The whole trend of British policy in India led towards it ; British politicians like Sir Staff ord Cripps, Mr. Leopold Amery, Lord Linlithgow, and Mr. Churchill played a vital part in the

disruption of India. It is not in this country alone that the British statesmen encouraged and worked for the division of state ; they were responsible for the creation of Ulster in Ireland, and of the Jewish state of Israel in Palestine against the opposition of the Arabs. But all this is past history now ; the best one can do in regard to it is to accept Pakistan as a part of the Divine plan and cease to fume and fret over it. It has not been an unmixed evil either ; the establishment of Pakistan may be regarded as the amputation of a diseased limb of our body politic which has left it healhier and stronger than before.

Other Communal Organisation—Though the Muslim League was the first communal body organised with the object of safeguarding the political rights of a particular religious community, it was not the only one of its kind in India. The Hindus, the Sikhs, the Christians, and the Untouchables set up communal organisations of their own in course of time for similar purposes. India became a land of communal organisations. The differences between them were utilised by the British Government for its own purpose. A few words may be added about some of them.

The Hindu Mahasabha—It is the chief communal organisation of the Hindus. It was set up in 1923 with the object of uniting the Hindus of India on a common platform for the protection and promotion of their interests and culture. Several factors contributed to its formation. In the first place, it was realised that the proselytising activities of the Muslims and Christians were having a highly adverse effect on the political power of the Hindus ; some steps had to be taken to counteract them. In the second place, the Hindus generally came out as the second best in the communal riots which broke out with greater frequency after the suspension of the non-violent non-cooperation movement in 1922. They suffered more losses in property and human lives than the other communities. It became necessary to organise the Hindus for self-defence. Shuddhi and Sanghatan thus became the watchwords of the Mahasabha in the early years of its life. Thirdly, the Muslim League was putting forth more and more aggressive demands and they were receiving the support of the British authorities. The Indian Congress could not take up a strong attitude against such demands. The Hindus were thus driven to organise themselves. This is the reason why nationalists like Madan Mohan Malaviya and Lajpat Rai supported

the Mahasabha. The strong and uncompromising attitude adopted by the Mahasabha towards the notorious Communal Award as compared to the neutral attitude of the Congrees illustrates this aspect of the Mahasabha activities. In short, the Mahasabha thrived mainly because of the unreasonable demands of the Muslim League and the policy of appeasement or compromise adopted by the Congress towards them. It did not achieve any success in its objective however, because it never obtained the same backing of the Hindu masses as the League did of the Muslims. It had a great and powerful rival in the National Congress whose policies and programme made greater appeal to the masses. The British Government also never patronised it. It therefore never acquired any political importance.

The advent of Mr. V. D. Savarkar wrought a great change in the character of the Mahasabha ; it developed a political programme and began to give a lead to the Hindus on political questions. He came at a time when the Hindus were beginning to feel dimly that the Congress wanted to placate the League and thereby might put the rights of the Hindus in jeopardy. Shri Savarkar used all his talents to impress upon the Hindus the dangerous consequences of this policy on their future. He preached the doctrine of Hindu ascendancy and asserted that the politics of India must be Hindu politics, and must be fashioned and tested in Hindu terms. He told the Muslims that they must be content with the status of a minority community in a democratic state which orders its life on the principle of majority rule. It would thus appear that the Mahasabha became as aggressively communal as the Muslim League, but 'tried to cover up its extreme narrowness of outlook by using some kind of vague national terminology.'* After the retirement of Shri Savarkar, Dr. S. P. Mookerjee became its leader and gave it a more *nationalist* outlook.

The Mahasabha is opposed to the Congress ideal of India being a secular state, and stands for a Hindu Rashtra. Its aim is the 'maintenance, protection and promotion of the Hindu race, Hindu culture and Hindu civilization, and the advancement of the glory of the Hindu Rashtra.' As against the League demand for Pakistan it set up the slogan of *Akhand* Hindustan. Its members still swear by the ideal of Akhand Hindustan. As a protest against

* Jawaharlal Nehru : *Discovery of India*, page 329.

the Congress acceptance of the scheme of partitioning the country the Hindu Mahasabha refused to participate in the Independence Day celebrations on August 15, 1947. It started direct action against the policy of the Congress government in U P. which, however, turned to be a dismal failure. The Government of India put a ban on this organisation as it was suspected of having a hand in the assasination of Mahatma Gandhi.

In so far as it wants to make India a Hindu Rashtra and rejects the ideal of secular state, it is definitely a reactionary movement out of tune with the spirit of the times. Though it talks of Hindu culture and civilization, its policies are incompatible with what is noblest and highest in Hindu culture, namely, tolerance and forbearance.

Rashtriya Swayam Sevak Sangh—A few words may be added about another Hindu communal organisation, allied to the Hindu Mahasabha but having no official connection with it. This is known as the Rashtriya Swayam Sevak Sangh. It claims to be a purely cultural movement, aiming at the revitalisation of the Hindu race and making it strong. In enrolls members at a comparatively early age and seeks to inculcate in them a definite ideology and outlook. Like the Mahasabha, it believes in Akhand Hindustan and stands for the establishment of a Hindu Rashtra in India. It thus rejects the conception of a secular state. Like the Mahasabha again, it was suspected of complicity in the conspiracy to kill Gandhiji and the Government banned it. Its chief was arrested. The ban was removed after sometime but restrictions were imposed upon some of its activities which had for their aim the establishment of a semi-military organisation.

The Sangh has done good work in inculcating the spirit of cohesion, social service, and discipline among its members; but it has produced a narrow and communal outlook in them. From this point of view, it is a retrograde movement. What the motherland needs is citizens with a broad vision and generous minds. Little minds and big states are incompatible.

Minority communities like the Sikhs, Indian Christians, Anglo Indians, Europeans and the Depressed Classes had their respective organisations. Each of them was anxious to get as large a share in political power under the reformed constitution as possible. The Sikhs demanded weightage in the Punjab and in the Centre similar

to what was conceded to the Muslims under the Lucknow pact. The Indian Christians and Anglo-Indians and Europeans made similar demands. The Depressed Classes under the leadership of Dr. Ambedkar wanted separate electorates. Their demands could not always be harmonised. The Muslim demand for a majority in the Punjab and Bengal could not be reconciled with the Sigh demand for weightage in the Punjab, and with the European and Anglo-Indian demand for special representation in Bengal and justice to the Hindus. Thus arose the communal problem which proved a stumbling block during the second session of the R. T. C. and made all progress in the work of the Federal Structure Committee impossible. Mahatma Gandhi tried his best to solve it but failed. In the end the British Prime Minister was asked to give his award. The distribution of seats between the various communities and interests in the central and provincial legislatures for purposes of the Act of 1935 was determined by this Award as modified by the Poona Pact between the Caste Hindus and the Depressed Classes. It was published on the 15th of August, 1932.

The Communal Award—It confined itself to the two basic questions of the method of election and the strength of the various communities in the legislatures. In view of the great harm that was being done by separate electorates nationalist opinion in India was strongly in favour of joint electorates with reservation of seats for the minority communities together with the right to contest additional seats. But as the Muslim delegates were not prepared to give up separate electorates, the Award retained the principle of communal representation through separate electorates and extended its application to communities which formed part of the non-Muslim constituencies according to the rules framed under the Act of 1919. The worst feature of the Award which led Mahatmaji to resort to his historic fast in the Yervada jail was the creation of separate electorates for the Depressed Classes. They had to be given up at a later stage because of the agreement arrived at between the caste Hindus and the Depressed Classes embodied in the famous Poona Pact.

The Award fixed the number of seats for Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans, labour, commerce and industry, landholders, universities and women in the provincial legislatures and laid down special arrangements for election. Seats were also reserved for the Marathas in Bombay as well as for the representa-

tives of backward areas. The number of seats allotted to each community or interest in the different provinces has been shown in the table on page 317 above. Here we would make some general observations concerning it.

Though Mr. Ramsay Macdonald claimed that the scheme of representation as contained in the Award was 'a fair and honest attempt to hold the balance between conflicting claims', it can be easily shown that certain communities were most favourably treated and others penalized by it. The scheme was most generous to the Europeans and Anglo-Indians and conceded to the Muslims most of their demands. It is most unfair to the Hindus.

The gross injustice done to the Hindus of Bengal and the excessive partiality shown to the Europeans and Anglo-Indians in that province would be evident from the fact that the Hindus who constituted 44·8% of the total population were given 32% of seats in the provincial Legislative Assembly, whereas the Europeans who formed less than one-tenth of one per cent of the population *i. e.* ·01% were given 25% of the seats (inclusive of European Commerce). The Anglo-Indians who constituted about one per thousand of the population got 1·6% of the seats. In other words, whereas the Hindus got less than what they were entitled to on population, basis, the Europeans got 25,000%, and the Anglo-Indians 3,000% weightage.* If this distribution of seats between the various communities could be regarded as just and fair, one wonders what an unfair and unjust distribution would have been. In the Punjab also the Hindus who were in a minority were given less than what they were entitled to on population basis. The Sikhs who constituted about 13% of the total population in the Punjab were given 18·3% of the seats. But similar Muslim minorities in other Provinces were given far greater representation ; for example, in the United Provinces where they formed less than 15% of the population the Muslims were assigned 30% of the seats. Similar was the case in Bombay, C. P., Madras, Bihar, and Assam. It is thus clear that as contrasted with the Muslims, the Sikhs were treated with small consideration. An analysis of the seats allotted to the various communities by the Award would show 'that the position of a community is estimated according to its opposition to nationalism and its strategic importance

* *The Communal Triangle*, page 74.

to the rulers.'‡

It is worth remembering that separate communal electorates were originally designed to afford protection to the *minorities*. What the Award did was to give separate representation to the *majorities* in the Punjab, Sind, the N. W. F. P., and Bengal. The minorities in these provinces never demanded separate electorates for themselves, but these were foisted upon them against their will. The Award threw overboard the Lucknow Pact between the Congress and the League but retained the weightage it granted to the Muslims—a procedure most unfair and unreasonable. Either the Lucknow Pact should have been adhered to in its entirety, or it should have been abrogated completely. There was no sense in rejecting one part of it and retaining another.

From the preceding analysis it would be clear that the communal problem had no reference to religious issues. It referred to percentages and seats and government jobs. Furthermore, it did not concern itself with the masses; it was confined only to the sections of the classes belonging to different faiths. An examination of the demands of the various communal bodies shows that they had nothing to do with the problems of the masses which was alike for the Hindu, Muslim, Sikh and Christian masses. This conclusion finds support in the following words occuring in the election manifesto of the Congress :

'It is necessary to bear in mind that the whole communal problem, inspite of its importance, has nothing to do with the major problems of India, poverty and widespread unemployment. It is not a religious problem, and it affects only a handful of people at the top. The peasantry, the workers, the traders and merchants, and the lower middle class of all communities are in no way touched by it, and their burdens remain.'

The communal problem was the result of the British policy arising out of Indian conditions. It could not be solved so long as British imperial interests dominated our politics. The only method to solve it was to abandon the principle of communal representation. But the vicious principle was stuck to, and British strategy saw to it that the communal problem continued to side track the struggle for independence

The British Government said that the Award was provisional

‡ *Ibid*, page 75.

in the sense that they were prepared to accept any better scheme to which *all* the parties concerned might give their full assent. Such agreement was to be reached before the Reform Bill became Law.

Unity Conference :—The general dis-satisfaction aroused by the Award and the success with which the probl em of the Depressed Classes was settled as a result of the Poona Pact led leaders like Maulana Abul Kalam Azad, Dr, Syed Mahmud, Pt. Madan Mohan Malaviya and Maulana Shaukat Ali to make fresh efforts to bring about an agreement between the various communities which would not only replace the Award but also lead to a permanent and honourable solution of the communal question. Maulana Shaukat Ali appealed to the Government to release Mahatma Gandhi to help them in this task or at least to allow the leaders to meet him in the jail and discuss the matter with him. The Government, however, turned down the Maulana's request, and the inter-communal negotiations were carried on without the help and guidance of Mahatmaji. A Unity Conference consisting of representatives of the Hindus, Sikhs, Muslims, and Christians was held at Allahabad early in November, 1932. It appointed a committee to consider proposals for bringing about an agreement between the various communities. Messrs. Ramanand Chatterji, Abul Kalam Azad, Shaukat Ali, C. Rajagopalachari and Pandit Malaviya were among its members. It met from November 3 to November 17, and arrived at certain tentative conclusions. These were placed before the various organizations by their representatives who took part in its proceedings and considered by them. The opinions of the different organizations on these proposals and the amendments recommended by them were considered by the Unity Conference at its third session which was held at Allahabad from December 23, 1932. The Conferenee reached complete agreement in respect of all important matters. The text of the agreement is very long and covers many items other than the number of seats allotted to the various communities in the central and provincial legislatures, and the method of election ; *e. g.*, fundamental rights of the citizens, protection of religious and cultural rights and personal laws of the minorities, composition of the cabinets. It represented an unprecedented measure of success in solving the communal problem by mutual agreement.

Having achieved unanimity on almost all the controversial points the sub-committee of the Unity Conference was to proceed to Calcutta to tackle the problem of the representation of the European community in the Bengal Legislature, which had been awarded 25% seats though it formed only. ·01% of the total populatian. It could not possibly be allowed that excessive weightage. At this crucial moment the British Government unexpectedly intervened, and the Secretary of State announced at the third session of the R. T. C. that they had decided to give the Muslims $33\frac{1}{3}\%$ of British Indian seats in the Central Legislative Assembly in place of the 32% which the Muslims had voluntarily accepted in the Unity Conference. They also announced their intention to separate Sind from Bombay and make it into a new Governor's Province with adequate financial aid from the Central Government. Nothing was said about safeguards for the Hindu minority in the new province. The Unity Conference had also agreed to constitute Sind into a separate province but without any aid or subvention from the Central Government and with adequate safeguards for the Hindus. These announcements made the work of the Unity Conference useless. Thanks to the adroit move on the part of the British Government, the labour of the Conference was wasted and the communal problem remained where the notorious Award left it.

The Abolition of Communal Representation—With the withdrawal of British authority from India the problem of communal representation and separate electorates also disappeared. First introduced for the Muslims in 1909, separate electorates were later on extended by every successive Reform Act to other communities and interests as they fitted admirably into the British policy of 'divide and rule'. It was with their help that the foreign government sought to balance and counterpoise one community against the other with a view to its own stability. The New Constitution framed by the Constituent Assembly has abolished separate electorates root and branch; seats have been reserved for the Scheduled Classes only for a period of ten years. Common electorates have been introduced for all classes of citizens. Thus the communal problem has ceased to exist in our country in the old form.

The New Communalism—It would, however, be wrong to assume that merely by abolishing the system of separate electorates and the reservation of seats for the minorities in the legislatures, local bodies

and public services, we have exorcised the evil spirit of communalism completely. Even in the ordinary course, it would have taken some time for the old mentality and outlook which were so sedulously fostered to die out. Matters were made infinitely worse by what happened to the Hindus in the Punjab, N. W. F. P. and elsewhere before and after the establishment of Pakistan. The tales of woe and misery and the spirit of intense hatred and bitterness which the refugees brought with them charged the atmosphere here; and in Calcutta, Bihar, U. P. and Delhi, etc., the Hindus were gripped by a mad spirit of retaliation. Mahatmajee suffered intense agony of spirit because of the blood bath which Mother India was having, and he staked his all to check and control this demon. He succeeded to a great extent, and ultimately lost his life in the pursuit of this noble mission. His martyrdom succeeded in bringing people back to their senses and the spirit of communal hatred became less intense.

There are, however, certain sections among the Hindus, the Sikhs and the Muslims who are still exerting their utmost to keep up the spirit of communalism. The talk of Hindu Rashtra and Hindu Culture in which persons imbued with the spirit of the Hindu Mahasabha and the Rashtriya Swayam Sevak Sangh so frequently indulge, the campaign of a section of the Sikhs under the leadership of Master Tara Singh for the establishment of a Sikh province, the desire of some old Muslim Leaguers to retain the Muslim League in India are a clear proof of the fact that the spirit of communalism still stalks the land ; it has not been driven out. Whereas, formerly the Muslim communalism dominated the scene and the Hindu and Sikh communalisms were its bye-products, at the present time, Hindu and Sikh communalisms are in the forefront and the Muslim communalism in the background.

Every type of communalism, be it Muslim, Hindu or Sikh, is undesirable. It is undesirable because it betrays a narrow and restricted outlook and a great concern for the interests of a smaller circle as against those of the nation at large. If the country is to make progress and nation to become strong and united, it is absolutely necessary that all the citizens must be ready to subordinate the narrow interests of their respective communities to the common interests of all. Communalism is the most dangerous enemy of democracy : nothing will bring a democracy to ruin more quickly

and more certainly than the subordination of broad national interests to a narrow, sectional good. From times immemorial India has been a secular state ; in the heyday of their power the Hindus always extended toleration to persons following other faiths and gave them equal rights and privileges. Intolerance and fanaticism are a denial of Hindu culture and compatible with Hindu genius. Those who want to establish a Hindu Rashtra as an answer to Pakistan render no service to Hinduism or to India ; they show by their attitude that they have not understood the true spirit of Hinduism much less realised it in their lives. Furthermore, communalism means disunity and disunity is weakness. Disunity was the bane of our society in the past ; it led to the enslavement of the country by outsiders ; we should learn a lesson from the past and avoid all steps which tend towards disintegration. The prime need of the hour is the welding together of all castes, creeds and communities into a strong and closely-knit nation ; we should help the Muslims and others to shed away their fear by adopting a generous attitude towards them. The propagation of communalism is the surest way to make the realisation of this aim impossible.

CHAPTER XII

Leading Personalities of the Gandhian Era

Introductory—The brief account of the contributions of some of the founders and leaders of the national movement during the first thirty years of the Congress as given in Chapter IV should be supplemented by a similar description of the activities of a few leading personalities of what may be regarded as the Gandhian era of the Congress. This is necessary because the history of this period is best read in the lives of its great men. Though their number is small, their contribution to the national movement is tremendous ; in the magnitude of their achievement they look like giants. But a very brief and therefore a very inadequate account is all that can be attempted here. Personal limitations and those of space are responsible for this inadequacy.

Mahatma Gandhi, Pandit Jawahar Lal Nehru, Babu Rajendra Prasad, Shri C. Rajagopalachari, Sardar Vallabhbhai Patel, Shri

Vitthalbhai Patel, Pandit Moti Lal Nehru, Deshbandhu Chitranjan Das, Netaji Subhash Chandra Bose, Maulana Abdul Kalam Azad, Shrimati Sarojini Naidv, Khan Abdul Gaffar Khan, Dr. M.A. Ansari, Hakim Ajmal Khan, Shri Jai Prakash Narayan, Shri J. M. Sen-Gupta and Shri Bhulabhai Desai are the outstanding names of this period among Congressmen. From amongst stalwarts of the pre-Gandhian era mention may be made of Lajpat Rai and Swami Shradhanandji. Though his contribution was of a negative character, Mr. Jinnah cannot be left out of account. Among liberal leaders mention should be made of the Rt. Hon'ble Srinivas Shastri, Pandit Hirday Nath Kunzru, Mr. C. Y. Chintamani, Sir Tej Bahadur Sapru and Dr. Jayakar. Outside the Congress and the Liberal Federation there was the towering personality and genius of Rabindra Nath Tagore whose contribution to national life is second to that of none. Among English friends of India the most beloved name is that of Deenabandhu C. F. Andrews. We cannot describe the contributions of all these eminent men and women ; we shall restrict ourselves to about half a dozen Congress leaders.

Deshbandhu Chitranjan Das--We may begin with Chitranjan Das who came to be known as *Deshbandhu* on account of the great role he played in the national struggle for freedom. Though his active public life covered but a few years, during that short period he dominated the politica life of Bengal and was one of the top ranking leaders at the All-India level. He entered politics in 1917 and soon rose into prominence. He was in favour of rejecting the Montford Reforms as inadequate and unsatisfactory, and was the co-author of the resolution moved' to that effect at the Amritsar Congress in 1919. At the special session of the Congress held at Calcutta in September 1920 he cpposed the resolution on Non-Cooperation moved by Mahatma Gandhi. He did not favour the boycott of the legislatures. But at the Nagpur session he supported the resolution on non-cooperation ; and afterwards flung himself wholeheartedly into the movement. It was chiefly because of his zeal, enthusiasm and earnestness that the non-cooperation movement achieved great success in Bengal. It was due to his personal efforts and influence that *Calcutta* .observed a complete Hartal when the Prince of Wales visited the city in 1921. He was in jail when negotiations took place betwaen Lord Reading and Mahatma Gandhi for the withdrawal of the movement, and he was very much annoyed

when he learnt that they had broken down on the issue of the release of the Ali brothers. He was a great realist and strategist. When he found that the abrupt suspension of the non-cooperation movement in February 1922 left the country in the grip of frustration, he placed before the country the programme of Council entry, and ultimately succeeded in getting Congress approval for it. The creation of the Council Front and the organisation of the Swaraj Party in collaboration with Pandit Motilal Nehru were the chief contributions of the great leader from Bengal. He gave up a life of ease, comfort and luxury at the call of the country ; renouncing a princely practice, he went to jail with almost all the members of his family. Sacrifice came to him as if it were his second nature ; and determination to do what he willed to do was an equally important trait of his character. He died suddenly in June 1925, leaving the country much poorer by his passing away. The triple crown of leadership of the Swaraj Party in the Bengal Legislative Council, Presidentship of the Bengal Provincial Congress Committee, and Mayorality of the Calcutta Corporation which he was wearing was placed upon the head of his lieutenant Shri J. M. Sen-Gupta. The Governor paid a tribute to him on his death in the following words : 'Mr. Das had an unnerving instinct for the weak points in an adversary's position, and a tenacious resolution in the execution of his own plans which placed him far above the level of the ablest of his lieutenants.'

Pandit Moti Lal Nehru—In several respects Pandit Moti Lal Nehru resembled Deshbandhu Chitranjan Das. What the latter was to Bengal, the former proved to be for the United Provinces. He dominated its politics during the last ten or twelve years of his life. Both Das and Nehru had attained great success at the bar, and were used to soft and luxurious living before they came under the influence of Mahatmaji. Both renounced the pleasures of life and plunged into the whirpool of Congress politics which meant a life of suffering and sacrifice. Both held similar views in politics.

Motilalji, however, differed from Das in one respect. He was a moderate in politics in his youth. He was a moderate because of his grounding in law and constitutionalism ; he believed that hard and extreme words led nowhere. He did not approve of his son, Jawahar Lal, joining the Satyagraha Sabha and courting imprisonment. He did not think that any good would come out of a number of individuals going to jail ; the act could not exert any pressure on

the Government. But a change came over him after he was fifty-five; he gave up the earlier moderate views, and 'travelled far in the direction of extremism.'* The differential treatment accorded to the European members of the Defence Force, the internment of Mrs. Besant in 1916, and the Punjab wrongs led him away from moderate politics towards extremism. The influence of Jawahar Lal was also an important contributory factor.

Almost the first thing he did after conversion to Congress politics was the launching of the daily *Independent* from Allahabad to serve as the organ of Congress in the U. P. The next step was his membership of the Enquiry Committee appointed by the Congress to investigate the excesses committed by the Punjab Government during the martial law. Gandhiji, C. R. Das, Fazl-ul-Haq and Abbas Tyabji were the other members. On being appointed as President of the Amritsar Congress in 1919 he resigned membership of the Enquiry Committee. He took active part in the Non-co-operation movement and was sent to jail.

After release he actively collaborated with Deshbandhu Das in founding and organising the Swaraj Party in 1923, and became its leader in the Central Legislative Assembly. His work as its leader was of a very high order and revealed his great organising ability. With the help of independent votes he was able to inflict defeat on the Government on several occasions. More important than his role as the leader of Swaraj Party was his contribution to the preparation of the memorable document known as the Nehru Report whose main recommendations have been described on pages 212—14 above. He made a gift of his palatial residence 'Swaraj Bhawan' to the nation. But his most valuable contribution to the nation is his illustrious son, Jawahar Lal Nehru. We would conclude this brief review of his contribution to the national life with the statement made by Mahatma Gandhi on his death in 1931 a few months after his release from jail: 'Motilal's death should be the envy of every patriot. He died after having surrendered his all for the country and upto the very last thinking only of the country. Let us deserve this hero's sacrifice, if not all, at least enough to attain freedom which he was yearning after and which is within easy grasp now.'

Subhash Chandra Bose—Though the trusted lieutenant and right-hand man of Deshbandhu Das, Netaji Subhash Chandra Bose

* **Chintamani**: *Indian politics Since Mutiny*, page 152.

was destined to engage himself in activities with which political India could have no sympathies. The result was that he was much misunderstood towards the close of his life.

Shri Subhash Chandra Bose successfully competed for the I. C. S. examination, but resigned in 1921 to join the non-cooperation movement, and was appointed as the Principal of the National College set up by Deshbandhu Das. When his chief, Deshbandhu Das, organised the Swaraj Party in 1923, Subhash Chandra Bose supported his proposal to carry on the struggle against Britain from inside the legislatures. When the former became the Mayor of Calcutta, the latter was appointed its Chief Executive Officer. This association with Deshbandhu Das continued till the passing away of the latter in 1925. When Subhash Chandra Bose was the Chief Executive Officer of the Calcutta Corporation, he was arrested by the Government of Bengal under Regulation III of 1818 and deported to Mandalay. While in detention there, he was elected by his compatriots to the Bengal Legislative Council. Along with Jawahar Lal and Srinivas Iyengar he proposed complete Independence as the goal of India as against Dominion Status on which the Nehru Report was based. He thus belonged to the extreme left wing of the Congress.

He held almost every important post open to an Indian in the public life of the country. He was President of the All-India Union Congress, the Youth Congress and other organisations. He was elected President of the Indian National Congress in 1938, and successfully sought re-election in 1939 against the wishes of Mahatma Gandhi and several members of the Congress Working Committee. But he had to resign the Presidentship soon after. Some time after he organised the Forward Bloc, but before he could make a mark as its President, he disappeared from his home where he was interned. He went to Italy, Germany and finally to Japan. He organised the Indian National Army with some help from the Japanese, and marched at its head to free India from bondage to British imperialism. He took this step because he believed that it was impossible to win Indian freedom without foreign help. He once declared : 'I have not found one single instance where freedom has been won without foreign aid.' Because of this step he was arraigned by his enemies as a supporter of the Fascist bloc, as a Quisling, etc. He was neither a fascist, nor a Quisling, nor an apologist of the tripartite powers. To

quote his own words, 'All my life I have been the servant of India and until the last hour of my life I shall remain one. My allegiance and loyalty has ever been and will ever be to India alone, no matter in what part of the world I may live.' But his countrymen did not share his conviction that Indian freedom could not be won without the help of foreign arms. Thus during the last four years of his life of dedicated service to the Motherland he found himself pursuing a line of conduct with which a great majority of his countrymen did not sympathise. But there could be no doubt about his motives ; he was as courageous a fighter in the battle for country's freedom as Gandhiji, Jawahar Lal, Sardar Patel or anyone else. 'While Gandhi is the sun of nationalism round which all the planets of the Indian National Congress revolve, Bose is a star that pursues an orbit of its own '* He was not a Gandhite like Sardar.Patel, Rajendra Prasad or Jawahar Lal Nehru ; he had little faith in non-violence. He held the view that Mahatmaji was a failure as a political leader. He regarded Deshbandhu Das as a greater leader who would have taken the country much further on the road to freedom than the Mahatma if only God had spared him for a few more years. His dissatisfaction with the Congress policy found expression in the organisation of the Forward Bloc which was a body of extreme left wingers. In his ideology and method of work he thus struck a line different from that of the Congress. This led to a good deal of misunderstanding between him and some important national leaders.

Sardar Vallabhbhai Patel.— Sardar Vallabhbhai Patel's name will go down in the history of our country not only as a great captain of the national forces in the struggle of freedom, but also as a great organiser and administrator. He was not only an able organiser of the fight for national freedom, but also the architect of the new State after the fight had been won. Great as his role was as an able and trusted lieutenant of Mahatma Gandhi without whom the practical influence of Mahatmaji's ideas would have been less that it has been, greater was the service he rendered to the nation as the Deputy Prime Minister and the Minister-in-charge of the Home and States Departments. It was in this capacity that his constructive statesmanship shone forth, and he was able to evolve order and unity out of the chaos and convulsions of the partition. He was essentially a man of action, a realist and not an intellectual like

* J. S. Bright : *Subhash Bose and his Ideas, preface.*

Jawahar Lal. He had no ideological fervour and had something like a horror of theories and isms. His ideal was the greatness and glory of the land of his birth, his passion its service, and his purpose its unity and strength. He judged the value of everything from the point of view of its conduciveness to the enhancement of the country's prosperity at home and its prestige abroad. He was wedded to the principle of gradualness, but it was a gradualness which could take rapid strides under appropriate conditions. During his stewardship of the States Ministry history was made not from month to month or from year to year, but from day to day.

Sardar Patel made his entry into politics in 1918 when he was attracted by the magnetic personality of Gandhiji in the cause of the peasants of Gujrat who demanded tax-relief from the Government of India. The peasants won in their struggle under the leadership of Mahatmaji. He was next associated with Gandhiji in his support of the mill-hands who had gone on strike against the mill-owners of Ahmadabad. Sardar Patel thenceforth became a close adherent and trusted lieutenant of Gandhiji and remained such till the end. He was several times lodged in the same jail with Gandhiji where the softer side of his nature was revealed.

The way in which Vallabhbhai Patel conducted the satyagraha of the peasants of Bardoli in 1928 against the enhancement of land revenue by the Government won for him the little of *Sardar* by which he was known ever afterwards. It enhanced his fame throughout India. The Civil Disobedience movement of 1930 found him not only the undisputed leader of Gujrat, but also a top-ranking national leader. He was elected to preside over the Congress session held at Karachi in 1931.

When Congress decided in 1937 to accept office under the Government of India Act of 1935, Sardar Patel found a new s here for his activities. He remained out of Government, but contro'ed and directed the Congress Ministries in the various provinces as the Supreme Generalissimo. In the words of P. R. R. Rao he 'was the Fuehrer of the Congress parliamentary regime, both *de jure* and *de facto*. He wielded immense power and directed, solo, the knotty administration of his immense jurisdiction. The ministers danced to his tune and quaked at his name.'

As has been hinted at above, his greatest achievement was the consolidation of the country from the Himalayas to Kanya Kumari

and from Assam to Gujrat under one central government. The liquidation of personal rule of the Princes in five hundred and odd States leading to the unification of the whole country has few parallels in history. In a way, it is a unique event. Whereas the unification of Germany under Bismark was wrought by force, that of India under Patel was achieved in a nonviolent way by the method of persuasion. Where force had to be used, as in Hyderabad, it was used after all other means had failed and to the minimum extent. The achievement of Sardar Patel acquires still greater significance when it is borne in mind that the process of integration was accompanied by the process of the building up of a democratic administration in the areas which were for long under autocratic and feudal rule. Whereas his Master demonstrated that national freedom could be won by non-violent means, Sardar Patel showed that love and ahimsa could be used to solve tangled and knotty problems of administration. By his phenomenal success which has passed into history Sardar Patel has become one of the immortals of the country.

Maulana Abul Kalam Azad.—Though he never dominated the political life of India or of any province as Sardar Patel or Deshbandhu Das or Motilal Nehru did, the role played by Mulana Abul Kalam Azad in the public life of the country is great indeed. He ranks as one of the greatest Urdu writers and speakers India has produced. His speeches and writings are considered as masterpieces of Urdu literature. He is also a polished writer in Arabic and Persian, and often contributes to Egyptian and Persian papers and journals His commentary on Koran, written while in detention in the Ahmednagar Fort, is one of the most standard and authoritative works.

Before he came under the hypnotic influence of Mahatma Gandhi the political activities of Maulana Azad were largely confined to writing articles for his own paper *Al-Hilal* and the *Hamdard* and *Hamdam* of Delhi which were being edited by Maulana Mohammad Ali. The change he wrought in Indian politics through his writings in these papers was great and significant. They were largely responsible for the change in the political creed of the Muslim League which brought it close to the Congress and made the alliance between the two possible at Lucknow.

When Mahatma Gandhi launched his great movement of Non-

violent Non-cooperation Maulana Azad threw himself whole-heartedly in it, and gave the Khilafat question his full support. He also brought the Jamiat-ul-Ulema-i-Hind of which he was the President into active participation in the movement. It was largely because of his masterly, convincing and forceful speech that the students of the Aligarh Muslim University joined the Non.coopera-tion movement. Ever since Maulana Azad has remained loyal and faithful to the Congress, and has not associated himself with any other association.

Maulana Azad was the Congress President when Sir Stafford Cripps came to India with the proposals of His Majesty's Govern-ment for the solution of the Indian problem. The Simla Conference and negotiations with the Cabinet Mission also were held during his Presidentship. The cool, collected and dignified way in which he conducted those delicate negotiations reflects highly on his persona-lity and character. He is the Minister for Education in the Government of India at the present time.

Dr. Rajendra Prasad.—Among Congress leaders who have dedicated their lives for the service of the nation and have suffered much for its sake Dr. Rajendra Prasad occupies a very high place. The esteem and regard which his compatriots have for him can be gauged from the great honours bestowed upon him,—honours which he richly deserved and for which he was best fitted. He was unani-mously elected the President of the Constituent Assembly which began functioning in 1947; and when India became a Republic, he became her first President. He was chosen to fill the high office of the President of the Congress twice. He is gentle and unassuming and is an embodiment of the old adage 'plain living and high thinking'. He has always shunned coming in the lime-light and preferred silent and unobtrusive work.

It was Gandhiji who inspired him to devote himself to public work. When he went to Bihar to study the conditions of the poor and oppressed peasantry of Champaran, Rajendra Prasad gave up his practice, abandoned his dream of becoming a judge of the Patna High Court, cast his lot with Mahatmaji, and began to work for the emancipation of the Champaran peasants. When the Non-coopera-tion movement was started, he finally decided to give up practice at the bar and devote his whole time to national work. He was mprisoned several times. The work he did for the relief of the

earthquake sufferers in Bihar shall ever remain enshrined in public memory as a splendid example of disinterested and unostentatious service. 'Among the luminaries who adorn the political firmament of India to-day, Dr. Rajendra Prasad is undoubtedly one of the most conspicuous'.*

Pandit Jawahar Lal Nehru.—'What an exemplary selfsacrifice ! What a stupendous energy ! What a mighty intellect ! These are the thoughts that flash across the mind's eye when one thinks in retrospect of the life of Jawahar Lal, the great leader of modern India.'† Participation in the struggle for the freedom of the country necessarily involved a large measure of self-sacrifice on the part of all, big and small, rich and poor; but there is a quality in the sacrifice of Jawahar Lal Nehru which is rarely met with. Born in the lap of luxury, educated at Harrow and Cambridge, and married to a girl of great personal charm and beauty, he chose to cast his lot with a hard task-master like Gandhijee and spent quite a large part of life in jail, sometimes under trying conditions. When out of the jail, he did not lead a life of idleness or ease but devoted himself to hard work. It is not easy for every person to work so energetically and so untiringly as did Jawahar Lal in the election campaign of 1937 when he covered a distance of forty thousand miles in four months using all means of communication from the aero-plane to the bullock cart and the cycle, Sometimes he addressed a dozen meetings a day. His *Autobiography*, *Discovery of India*, *Glimpses of World History*, his speeches and Presidential addresses are an eloquent testimony to his mighty intellect. It has been remarked that probably more was accomplished in a few moments by his Autobiography to swing round liberal opinion in the world than had been accomplished by the many years of political struggle that had gone before. So completely did he identify himself with the fight for Indian freedom and so fully was he absorbed in it that if there is any Indian other than Gandhijee about whom it can be said that the history of his life is the history of the Indian struggle for freedom, it is Jawahar Lal. He believed in and acted upon the motto of living dangerously. The Home Rule movements started by Lokmanaya Tilak and Mrs. Besant stimulated him, and Gandhijee's proposal to start satyagraha against the

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*P. R. Menon in *Eminent Indians*, page 79.

† *Eminent Indians*, page 40.

Rowlatt Bill fired his imagination. He wanted to throw himself into it regardless of consequences, but refrained from doing so on the advice of Gandhijee who asked him not to do anything which might upset his father. We next find him wandering among the Kisans of U. P., feeding with them, living with them in their mud huts and talking to them for hours; and this in the month of June. Then came the great movement of Non-Cooperation, his participation in it, and his first jail-going. After release in 1923 he went to Nabha to witness the struggle of the Sikhs against the ruler, and was interned in a most insanitary cell where he caught typhoid. He was appointed General Secretary of the Congress in 1923 which post he held for several years. He was also elected as the Chairman of the Allahabad Municipal Board and did much useful work in that capacity. It is hardly necessary to describe here the role he played in the various movements of Civil Disobedience; only this much may be stated that he was mainly instrumental in the formulation o the resolutions adopted by the Working Committee during the pendency of the war in Europe. Reference, however, must be made to some aspects of his contribution to political thought and movement in the country.

In the first place, it must be remembered that Jawahar Lal has wider international contacts than any other political leader of India ; he has friends all over the world, in Europe, in America, and in Asia. His study of international politics is profounder than that of others, and his forecasts as regards international developments have seldom proved wrong. For opinion and decisions on international problems Gandhiji always depended upon him ; the resolutions of the Working Committee on international problems were usually adopted at his suggestion. •It is his deep study of the international problems that has enabled him to guide the foreign policy of free India in an excellent way. In the second place, he viewed the Indian struggle as a part of the wider struggle of oppressed humanity against imperalism and colonialism. This explains not only why Jawahar Lal sympathised with Spain, China, Poland and other countries which were victims of imperialistic aggression, but the further fact that he stands for and represents the new and rising Asia. As Prime Minister and Minister in charge of Foreign Relations he has made the idea of a peaceful, prosperous and friendly world the corner-stone of the foreign policy of India. Under his guidance

India has adopted the policy of avoiding taking sides in the cold war between the Anglo-American bloc and the Soviet bloc. He has based views on each question on merit and not on consideration of power-politics. In the third place, he was responsible for the acceptance of socialistic ideas by the Congress and their embodiment in resolutions which stressed the need for agrarian reform and the state control of key industries in the Karachi session. He gave expression to his socialistic ideas in the Lucknow session. He also laid stress on the importance of economic planning and was the Chairman of the National Planning Committee established by Congress in 1939. In the fourth place, he was responsible for the establishment of the A. I. C. C. Foreign Department to carry on propaganda in foreign countries about the national movement in the country. Fifthly, as first President of the States' People Conference he condemned the rule of Indian Princes 'as an ignominous bye-product of British rule. Sixthly, he was a very prominent leader of the Youth movement in the country and played a great role in stimulating and organizing the youth on progressive lines. He did not ignore the women of India, and laid emphasis on their uplift. Seventhly, he was primarily responsible for the resolution of the Working Committee which offered help to Great Britain in the war on condition that a national government be set up in India.

Finally, it may be mentioned that he, along with Subhash Bose, put up an opposition against the Nehru Report on the ground that it had made Dominion Status the basis of its constitutional scheme. It was under his Presidentship that Congress declared Complete Independence for India as its goal at Lahore in 1929. He was opposed to office acceptance in 1397, and to the proposal of the Swaraj Party in 1923 to create the Council Front. He has been elected to preside over the Congress five times, whereas no other leader had this honour more than thrice. This by itself shows his popularity with the people and his place in the Congress. It is also worthy of note that he has all along laid stress on the development of science and the adoption of the scientific outlook on life. On several occasions he addressed the All-India Science Congress. He is a great enemy of superstition, fanaticism and the spirit of communalism. He regards communalism as the greatest obstacle in the path of Indian progress and is the greatest advocate of the idea of secular state at the present time.

It is aslo worth nothirg that Jawahar Lal is one of the few Indian leaders to have grasped the true essence of Mahatmaji's doctrine of Non-violence and adopted it. It was not for nothing that Mahatmaji described him as his heir. He realised that after he was dead, Jawahar Lal would keep up the faith in non-violence burning and lead the nation along its path. This he has tried his best to do. As a true and faithful disciple of Mahatmaji Jawaharlal has upheld high standards of purity and integrity in politics and administration and has never turned away from the path of rectitude in international diplomacy and statecraft. He is never tired of repeating the insistence of Gandhiji on the impossibility of separating ends from means.

Bfore concluding this very short review of the many-sided contributions of Jawaharlal to the national movement and political thought, it may be pointed out that his socialism is not of the doctrinaire type. He is not a blind follower of Marx or Lenin or Stalin. He has tempered his socialism to suit Indian needs and Indian situation He holds the view that objective situations are more vital and more foundamental than abstract principles. Attention may also be drawn to an important fact which throws a flood of light on his character and personality. When he was returning from Switzerland after the passing away of his wife there, he passed through Rome, and Mussolini invited him to meet him. He declined the invitation and came straight to India. On an earlier accasion when he was in Berlin, he had turned down a similar invitation extended by Hitler.

Mahatma Gandhi :—Greater than any one of the political leaders of India, old and new, nay, greater than all of them taken together, was Mahatma Gandhi, the Father of the Nation and the apostle of Non-violence. He was greater than they in the sum total of his contribution to the national awakening and his achievements, greater in the extent and intensity of his appeal to the masses, greater in his fearlessness and moral fervour, greater in the degree to which he summed up in his complex personality the quintessence of Indian culture and the genius of the race, and greater as the prophet of a new era. Acharya Kriplani once said : 'The Mahatma is more right when he is wrong than we are when we are right.' This gives us an inkling into his greatness. 'Many of us are correct in our little correctnesses and are small in the

process. But the Mahatma was incorrect in many things and yet correct in the sum-total and big in the very inconsistencies. In the end he seldom or never came out at the wrong place.'*

Mahatmajee was not a mere politician bent upon winning freedom for his country like other leaders ; he was a saint also. What made him different from and greater than the others was the synthesis of the politician and the saint in him. The saint in him led him to sit lightly to the things of this world ; it made him an ascetic. He was an ascetic, however, who did not flee from the world but served the people. He related his renunciation of the pleasures of the world to the service of the country, and thereby gripped the soul of India. He was a *Karamyogi* as depicted in the *Bhagwad Gita.* The Mahatma combined in him several other strongly marked antitheses also. He was a mystic who listened to the Inner Voice and yet he was intensely practical ; he was an idealist, yet he never lost touch with the realities of life ; it is wrong to describe him as a visionary. He was serious and also playful ; he was stubborn and yet yielding. It is the synthesis of so many antitheses which made him an extraordinary individual.

For a proper understanding and appreciation of the life and activities of Mahatma Gandhi it is necessary to remember that he was much more than an Indian leader who fought for and won freedom for his country. This was incidental to the mission of his life. Essentially and fundamentally he was a world-teacher with a message for humanity. This is the message of *satya* and *ahimsa* as the basis of a new social order. It could be delivered only through the struggle for Indian freedom, Through it he proclaimed 'the freedom of the world—freedom from violence, freedom from cupidity and aggressiveness, freedom from passions and ambitions that have destroyed nations.'† In short, in and through the Indian struggle for freedom Gandhijee asserted the sovereignty of non-violence and proclaimed to the whole world that the only way to save the present civilization from a crash is to eschew violence in every form. His message has thus a universal import. He did not claim any orginality for placing before the world the law of Satyagraha and its offshoots, non-cooperation

*Stanley Jones : *Mahatma Gandhi, An Interpretation*, page 41.

† Nagengranath Gupta, *Gandhi and Gandhism*, page 9 .

and civil resistance; they are only new names for the ancient law of suffering or self-sacrifice. 'The rishis, who discovered the law of non-violence in the midst of violence, were greater geniuses than Newton. They were themselves greater warriors than Wellington. Having themselves known the use of arms, they realised their uselessness, and taught a weary world that its salvation lay not through violence but through non-violence.'†

To observe non-violence or ahimsa towards others one must be truthful, fearless, loving, gentle, and simple. The whole life of Gandhiji was an unbroken quest for truth; this is why he gave his autobiography the caption: *My experiments with Truth.* So many great men have written their autobiographies; but none other than Gandhiji described his life as the record of his search for truth. For him Truth is God.

By insisting upon truthfulness as the pre-requisite of Satyagraha Mahatmaji succeeded in putting it at the centre of the nation's political life. It was a great achievement indeed. But Gandhiji not only pulled up people into truth, he also taught them to become fearless. 'The dominant impulse in India under the British rule was that of fear—pervasive, oppressing, strangling fear.'‡ People were afraid of the C. I. D., of the police, of the jail, and of the officials. They were afraid because their great concern was safety—safety first and safety last. Even the politicians would not expose the evils of the British administration freely because it was not safe to do so. Gandhiji changed all this; he taught men to be fearless. People were no longer afraid of the police, the jail and the officials. The change he wrought in the psychology of the people was amazing indeed. No real struggle for freedom could be possible unless the masses first shed the fear-complex and put on one side the thought of safety.

But to tread on the path of truthfulness and fearlessness means sacrifice and suffering; to quote his own words, 'Non-violence in its dynamic condition means conscious suffering.' Mahatmaji prepared his countrymen for this thing also. He showed to them and to the world that the cause of freedom is best and most nobly served by sacrifice and suffering. The hardships and privations cheerfully undergone by the satyagrahis made a great appeal to the

† Young India, 11-8-.0

‡ Jawahar Lal Nehru: *Discovery of India*, page 303.

world outside and gripped their attention. In this way Mahatmaji placed before mankind a new spring of action and a new trend in thinking.

The observance of non-violence requires not only truthfulness, fearlessness, and conscious suffering, but also simplicity. Simplicity was rigorously enforced in the Ashramas which Mahatmaji set up. His own life was a model of simplicity. There was nothing superfluous in his hut at Sevagram, nothing which he did not need. And the whole nation followed suit. The adoption of coarse hand-spun and hand-woven cloth known as Khadi as the national uniform changed the habits and tastes of the people and resulted in great simplicity of life. Simplicity manifested itself even in the speeches and writings of Mahatmajee. He never made any attempt at eloquence or rhetorie or the use of flowery language. His words came direct from the heart and went straight into the hearts of his hearers.

Mahatma Gandhi's insistence upon Truth and Ahimsa is intimately connected with his emphasis upon the intimate relation between religion and politics. He said that those who hold that religion has nothing to do with politics do not know what religion means. 'For me there are no politics devoid of religion. Politics bereft of religion are a death-trap because they kill the soul.' By religion he did not mean ritualism, dogma or creed ; certainly a man's religious cre.d or faith or the way in which he worships God or says his prayers has nothing to do with his politics. But if by religion we understand an inner spiritual life or belief in the supreme values of life, his statement that politics bereft of religion kill the soul is cent per cent true. The whole world watched with interest the Indian struggle for freedom under the unique leadership of Gandhiji because it chose to employ only moral means for the attainment of political ends; India pitted soul force against brute force and sought to produce a change of heart on the part of the aggressor by self-suffering and sacrifice. She had to pay a price for the attainment of liberty like all other nations. But whereas hitherto the price demanded and paid was the blood of those from whom liberty was to be wrested as well as the blood of those who sought it, Mahamaji taught mankind for the first time that this price may be paid in the sacrifice and suffering and even the blood of only those who seek it, but not in the blood of the opponents. Satyagraha calls for sacrifice

and suffering on the part of its votaries but does not inflict suffering upon others. It thus involves the manifestation of all that is noble in man and the extinction of all that is mean and ignoble ; it elevates the individual and the nation. It is supreme character-forming process. Incidentally this shows that styagraha is the weapon of the strong and the brave and not of the weak and the coward.

Another implication of the spiritualisation of politics wrought by Gandhiji deserves to be noted. In many circles the idea was and is still held that in politics the end justifies the means. For winning freedom of the nation political murders, deceit, fraud, lying, etc., were and are considered to be justifiable. But Mahatmajee taught that there is no distinction between means and end ; they together constitute one integral whole. The moral value of the means affects the morality of the end. If the means are ignoble and immoral, the end suffers in moral worth. A good end can never be achieved by immoral means. This is as great a condemnation of Communism with its theory of class-war and use of force as one can wish.

'Is it not strange that although Mahatma Gandhi is the leader of a movement of political freedom he has never been compared to such great national leaders as Rienze, Mirabeau, Washington, Hampden, Mazzini, Sun-Yat-Sen, or Zaghlul Pasha ? Yet he has been repeatedly and widely compared to great religious teachers like Zoroaster, Buddha and Christ, or a saint like St. Francis of Assisi. What political leader has fasted for twenty-one days to do penance for his country and the warring factions of his countrymen ?'* The reason for the fact is that Gandhiji was more of a prophet sent on a divine mission than a political leader. As has been indicated earlier, that he had to lead a political movement was incidental to the mission of his life, and not its essence. For him patriotism had no Geographical limits : it was the same as humanity. He once said : 'I am patriotic because I am human and humane. My patriotism is not exclusive I will not hurt England or Germany to serve India. A patriot is so much less a patriot if he is a lukewarm humanitarian.' There was more in common between him and religious leaders like Buddha and Christ than between him and political leaders like Hampden and Mazzini.

The account of the National Movement as given in Chapters VI and X should show to the reader the profound change produced in

* Negendranath Gupta, *Gandhi and Gandhism*, page 96.

the character of the Indian National Congress by the advent of Gandhiji. It has been beautifully summed up by Nagendranath Gupta in the following words : 'The movement led by Mahatma Gandhi has brought into prominence some of the greatest men that India has known in recent times, men who would be considered great in any country at any time. If Mahatma Gandhi is the prophet they are undoubtedly the apostles. The national movement in India may be easily divided into two phases, one before Mahatma Gandhi had joined the Indian National Congress and the other after he became the most conspicuous figure in it. In the earlier state Congressmen confined themselves to agitation and oratory, to ever-repeated assertion of their birth-right to Home Rule, and severe criticism of governmental action, to constitutionalism and reformism. Only the very greatest of them risked and sacrificed everything for achieving their goal. The rank and file were passive onlookers and on-hearers so to say. This might have gone on for any number of years without any prospect of freedom for India. Then came Mahatma Gandhi with his experience of the Transvall, his spiritual outlook, his gentle nature and his inflexible will. There were willing hearts in India waiting for his call and they at once realised the nature of the struggle that lay ahead of them. Since then the struggle for national freedom in India has grown ever wider and to-day it comprehends the entire nation ; it has been a glorious record, which is being added day after day, of sacrifice and suffering and women have vied with men in offering themselves as sacrifices at the altar of liberty. The old caution and timidity have disappeared for ever ; the prison has lost its hardships and degradation, and there are no signs of hestitation or reluctance to suffer. Men or women are filled with the spirit of martyrdom and the determination to win by suffering what was hitherto accomdlished by violence.'*

Mahatmaji's leadership of the Congress resulted in a great expansion of the scope of its activities. Before his advent it was largely an association of middle class intelligentsia, aiming at political reforms. Although men like Dadabhoy Naoroji and Mahadev Govind Ranade spoke of the poverty of the masses, the Congress did not take any action for the amelioration of their lot. Mahatmaji made it into a mass movement, and it fought for Swaraj for the

* *Gandhi and Gandhism*, page 92.

benefit of the masses. In the course of the speech delivered by Mahatma Gandhi at the Round Table Conference he said : 'Above all, the Congress represents in its essence, the dumb, semi-starved millions scattered over the length and breadth of the land in its seven hundred thousand villages, no matter whether they come from what is called British India, or what is called Indian India. Every interest which, in the opinion of the Congress, is worthy of protection, has to subserve the interests of these dumb millions. You do find now and again apparent clash between several interests. If there is a genuine and real clash, I have no hesitation in saying on behalf of the Congress that the Congress will sacrifice every interest for the sake of the interests of these dumb millions. It is, therefore, essentially a peasant organisation, or, it is becoming so progressively.' From an association of middle class intelligentsia to a mass organisation of the peasants was a radical change; it was due entirely to Mahatma Gandhi. At a later date its sessions began to be held in villages so that it came into closer touch with the masses and helped to improve their condition.

Though Mahatmaji exalted poverty in his own case, he worked more assiduously than any other leader for the material welfare of the people of India and strove hard to enliven their existence with some joy. To that end he started the Gram Udyog Sangh or the Village Industries Association, the Cow Protection Association, and the Basic Education Society, or the Talimi Sangh. At a later date the Sarvodaya Society was brought into existence by his followers with the object of translating into action the ideas of Mahatmaji. If the new social order as conceived by the great apostle of Love and Ahimsa is ever to come into existence, it would be through the popularisation and great extension of the activities of these associations. This is not the proper place to explain and expound the ideas of Gandhiji in the economic sphere; but we would state in brief their central point.

Mahatmaji did not restrict the application of non-violence to the political sphere only ; he sought to bring the economic life of society also within its purview. The present economic order reeks with violence through and through; it is synonymous with the exploitation of the propertiless proletariat class by the owners of the material means of production. All the evils the world is suffering from at present flow from this ruthless and heartless exploitation of

one class by another. The application of non-violence to the economic life of society should mean the cessation of this exploitation. The Socialists and the Communists propose their own remedies for achieving this objective ; but Mahatmaji's views are radically different from theirs. He does not recommend socialisation of land and capital ; the lot of the labourer, agricultural or industrial, would not necessarily improve under a socialist regime. Mahatmajee's recipe for the evil is *decentralisation* in the economic sphere. He recommended cottage industries where the individual owns all the means of production and also what he produces. He makes full use of his labour and retains and develops his individuality. Khadi is the symbol of the economic programme of Mahatmaji. The re-discovery and revival of khadi industry is one of his master-strokes ; this alone would have sufficed to perpetuate his memory for hundreds of years.

Tagore on Gandhi :—In the foregoing paragraphs we have tried to account for the greatness of Gandhiji and have also made a general estimate of his many-sided contribution to the political, social, economic, religious and cultural life of India. We would conclude our account with a quotation from what Rabindranath Tagore, whom Mahatamaji described as the Great Sentinel and accosted as Gurudeva, thought about him. He wrote as follows :

'Great as he is as a politician, as an organizer, as a leader of men, as a moral reformer, he is greater than all these as a man, because non of these aspects and activities limits his humanity. They are rather inspired and sustained by it. Though an incorrigible idealist and given to referring all conduct to certain pet formulae of his own, he is essentially a lover of men and not of mere ideas ; which makes him so cautious and conservative in his revolutionary schemes. If he proposes an experiment for society, he must first subject himself to its ordeal. If he calls for a sacrifice; he must first pay its price himself. While many socialists wait for all to be deprived of their privileges before they would part with their own, this man first renounces before he ventures to make any claims on the renunciation of others.

'His emphasis on the truth and purity of the means, from which he has evolved his creed of non-violence, is but another aspect of his deep and insistent humanity ; for it insists that men in their fight for their claims must only so assert their rights, whether as individuals or as groups, as never to violate their

fundamental obligation to humanity, which is to respect life. To say that, existing rights and privileges of certain classes are still maintained by violence, they can only be destroyed by violence, is to create an unending circle of viciousness ; for there will always be men with some grievance, fancied or real, against the prevailing order of society, who will claim the same immunity from moral obligation and the right to wade to their goal through slaughter. Somewhere the circle has to be broken, and Gandhiji wants his country to win the glory of first breaking it.'

Our country has won the glory of being the first to break the vicious circle of violence. Shall we forfeit it by once again indulging in violence in the effort to realise a more equitable distribution of national wealth and income, or shall we try to achieve the end by non-violent means ? Let my countrymen ponder and answer the question, each for himself.

Mahatmaji's Conception of Swaraj :—Mahatma Gandhi succeeded in winning freedom for India ; but unfortunately he was killed by the bullet of a fanatically communal Hindu before he could take steps to shape and mould India according to his wishes. A few words on this topic seem to be necessary here.

Mahatmaji used to say that he wanted to see Ram Rajya realised in India. By Ram Rajya he did not mean a Hindu theocratic state as he was misrepresented to mean by some Muslim Leaguers including the late Mr. Liaqat Ali Khan. By Ram Rajya he meant what Christians describe as the Kingdom of God on earth. In political terminology it meant 'a perfect democracy in which inequalities based on possession and non-possession, colour, race, or creed or sex vanish. In it land and state would belong to the people. Justice is prompt, perfect and cheap, and therefore, there is freedom of worship and of speech and the press—all this because of the reign of the self-imposed law of moral restraint. Such a state must be based on truth and non-violence, and must consist of prosperous, happy and self-contained villages and village communities.' The following passage also explains his conception of Ram Rajya : 'I shall work for an India in which the poorest shall feel that it is their country, in whose making they have an effective voice, an India in which all communities shall live in perfect harmony......... There can be no room in such an India for the curse of untouchability, or the

curse of intoxicating drinks and drugs. Women shall enjoy the same rights as men...... This is the India of my dreams.'

A few points call for comment in this connection. Was the India of Mahatmaji's dream to have a standing army and the police ? The presence of the police seems to be absolutely necessary for keeping in check recalcitrant and anti-social elements in society. Military force seems to be equally necessary for the defence of the country against foreign aggression. History knows of no state that could do away completely with these agencies ; in the last resort the State makes use of force of the community to enforce its will. It is not definite whether Mahatmaji would have agreed to the presence of the police and the military in his ideal state. There is however no doubt that their retention is incompatible with the non-violent organisation of society. But the Mahatma was not a visionary ; he was a practical idealist. It may therefore be concluded that as a concession to human weakness and as a temporary measure he may have tolerated these two symbols of brute force. He was something of an anarchist in his views about the necessity of the State ; a perfect society organised on the basis of truth and non-violence does not need a state with its police and military.

Mahatmaji aimed at the abolition of all types of inequalities : inequalities of status based on birth, wealth, caste, creed, etc. Chiefly on account of the crusade led by him untouchability has been abolished by the New Constitution, and the inequalities of the caste system have been greatly reduced, if not completely overcome. Our *secular* state gives equal protection of law and equality of rights and privileges to every citizen irrespective of his religious faith. But inequalities of wealth still remain. Mahatmaji did not indicate any way to eliminate them. He could not recommend expropriation of the capitalist and the forcible seizure of wealth of the rich. Short of a revolution like the one Russia witnessed in 1917 there seems to be no way to abolish inequality of possession. Mahatmaji might have achieved his purpose through the advocacy and adoption of the doctrine of Trusteeship. Owners of wealth should consider themselves as trustees of the wealth they have on behalf of the nation. If a country becomes khadi-minded and introduces cottage industries on the widest scale possible, the problem of the unequal distribution of national wealth can be solved easily enough. This process is long, no doubt, but gives permanent results. It seems to be the only

method compatible with non-violence.

Mahatmaji touched the core of the problem when he said that the India of his dream was to consist of happy, prosperous and self-contained villages and village-communities. If the villages could be revitalised as little, self-contained republics and ceased to be the apron-strings of the cities as they are at the present, the problem of organising the state on the basis of truth and violence would become very easy.

Mahatmaji and Communal Unity—It is not always fully realised that Mahatmajee fought not one but two battles in India and won both of them. The first was the battle of Indian independence. Though it was begun in 1920 with the launching of the Non-Cooperation movement, in reality it commenced in March 1930 when Mahatmajee left the Sabarmati Ashram to break the Salt Law at Dandi. It continued for eighteen years. During these eighteen years he never went back to Sabarmati Ashram. The second was the battle for the achievement of communal harmony. Though its promotion formed a vital part of the constructive programme and the whole life of Bapu was devoted to its achievement, it can be said to have been fought really during the last one year and a half years of his life. 'Leaving Sevagram Ashram, he fought the battle of the inner unity of India for eighteen months...and he never came back to Sevagram during those eighteen months.'* Sabarmati and Sevagram 'were the two centres of quiet where he gathered strength to go forth to win two of the greatest battles of history—to win them in a new way with new weapons.'* The unique way in which he fought and won the battle of independence by abjuring violence and relying on moral and spiritual weapons alone has been described in Chapters VI and X above. Here we shall add a few words about the way in which he fought the battle of the inner unity of India.

Though the spirit of communal strife and bitterness had become intense enough in 1923 and 1924 to necessitate a 21 days' fast on the part of Mahatma Gandhi at Delhi in September 1924 as a penance for the fury and murderousness on the part of his countrymen who took part in the communal riots, it reached its climax in 1946 and 1947 as a result of the policy of Direct Action adopted by the Muslim League.† The observation of the 16th of September,

* Stanley ones, *Mahatma Gandhi*, page 158.

† See above page 424.

1946, as the Direct Action Day started a series of bloody and murderous riots. The killing began at Calcutta and thence spread to Noakhali. There was retaliation in Bihar and Garhmukteswar in the U. P. These were followed by terrible reprisals in Rawalpindi, Lahore, *etc.* Then came the Partition leading to the slaughter of thousands of Hindus and Sikhs in Pakistan and of Muslims in the Punjab, Delhi, U. P., *etc.* Refugees from Pakistan who had to flee for their lives brought with them tales of unspeakable misery, woe and brutality, and the atmosphere became charged with intense bitterness and hatred for the Muslims on the part of the Hindus. Mahatmajee was in great mental agony. He took heroic steps to combat the malady and drive the poison of communal hatred out of the body politic. He went to Noakhali in East Bengal, walked bare-footed from village to village and applied the healing blam to the sore minds of the Hindus and succeeded to a great extent in restoring harmony between the two communities. He next came to Bihar and persuaded the Hindus to receive back the Muslims who had fled from their homes and help them to resettle. But the real battle of the inner unity of India was fought at Calcutta and at Delhi where he wrought miracles. Calcutta had suffered terribly from communal riots and was festering with hate. Mahatmajee felt that Calcutta was a decisive battle-ground, and so he went there and stayed in the house of a Muslim in the heart of the riot-stricken area. Mr. Suhrawardy, during whose Premiership Calcutta had its blood-bath in September 1946, came to stay with him. This infuriated the Hindu mob who began to pelt stones at the house. Finding that talks with the various deputations did not improve matters Mahatmajee decided to fast unto death unless the people changed. Seventy-two hours of fasting changed the whole atmosphere. 'Peace crept into the hearts of the embittered people', and the weapons which the rioters had used to kill each other were surrendered to the Mahatma. Lord Mountbatten remarked : 'What fifty-thousand well-equipped soldiers could not do, the Mahatma has done—he has brought peace. He is a one-man boundary force.' And the peace established by him lasted.

'The battle of Calcutta was great, the battle of Delhi was greater.'* Delhi was the scene of communal rioting in which hundreds of persons were killed ; it had become a festering sore.

* Stanley Jones, *op. ct.*, page 152.

Gandhiji realised that unless the evil was scotched at the capital, it would spread over the whole country and ruin it. He went on a fast in January 1948 and virtually said to the people that he could not live unless they became united. The fast was undertaken against dishonesty of the people also. As in Calcutta, it wrought a miracle; the entire atmosphere underwent a radical change. People who were out a few days before to kill and wipe off the Muslims began parading the street shouting 'Save the Mahatma', 'Down with communal strife', 'Hindus and Muslims are brothers'. Mahatmaji laid down eight conditions for breaking the fast all of which were in favour of the Muslims. One of them was that the Hindus and the Sikhs should restore to the Muslims the 117 mosques which had been taken possession of by them and converted into dwelling places or temples. All the conditions were accepted. Feeling assured that they would be implemented Gandhiji broke his fast. It worked a miracle; it was a 'high moral moment in the history of humanity'. It demonstrated to the Muslims that Gandhiji was their great friend and that they could look forward to safety and equality of treatment in the Indian Republic, if they accepted its citizenship and gave it their undivided allegiance. In this fast 'a little man reached out and took into his heart two sins of his country—dishonesty and disunity —and bore them in his own body on a bed of fasting. And the country responded and in a deeply penitent mood promised, through its representatives, that they would change according to the Mahatma's behests.'*

The victory however was not complete. There was a section of the public who did not approve of the fast and its objectives. They thought that the Mahatma should have fasted against the Muslims of Pakistan who were the really guilty party and not against them. What they did was by way of retaliation. They also highly resented the fact that he was trying to reinstate the Muslims on terms of equality with the Hindus. Their argument was that after having obtained Pakistan the Muslims had no business to remain in India which belonged to the Hindus and should be reserved for them. West Pakistan had been denuded of its Hindu and Sikh minorities; let India be similarly cleared of the Muslims. Thus whereas the Mahatma stood out for the principle that India belongs to all communities who choose to make her their home and

* *Ibid*, page 52.

that no one should suffer any disability because of the religious faith he holds, his opponents held that India belongs to the Hindus alone and the Muslims should be driven out. This represented the outlook of the Hindu Mahasabha and the R. S. S.

Feeling that the presence of the Mahatma was the greatest obstacle to the general acceptance of their view-point, some of them hatched a conspiracy and decided to get rid of him. On the evening of the 30th of January, 1948, a few days after the termination of his fast, when he was coming for the evening prayer a communal fanatic fired three shots at him at point blank range and thus sniffed out the light that had shone for decades. But by assassinating him they did not succeed in their objective; the effect was just the opposite. By his martyrdom Gandhijee did more for exocrising the demon of communalism than what he could hope to achieve by living for a few years more. 'We have no excuse for the mad act, but since Gandhijee was an instrument of God all his life, so he continued to be an instrument of God in his death. God has used the tragedy to further the very things for which he lived'.* There is no doubt that if Gandhijee were given the privilege of choosing the issue on which to die, he could not have chosen a better and nobler issue. His death was in keeping with the whole tenor of his life. He lived for an India for all, and died for an India for all.

**Ibid*, page 54.

THE NEW CONSTITUTION

CHAPTER XIII

Introductory : Salient Features of the New Constitution, etc.

Introductory—It was at its Lahore session held in 1929 that the Indian National Congress declared Complete Independence of India to be its goal. Complete Independence meant two things : (*i*) the right of the people of India to frame their own constitution through a Constituent Assembly chosen by them ; and (*ii*) severence of the link with the British Empire. Both these objectives have been achieved in their entirety ; we are today living under a constitution framed by our representatives and are a fully free people owing allegiance to no external authority. In the preceding chapters we have described how India wrought her freedom ; in the chapters to follow we shall describe the system of government as it is functioning in the country to-day. In this Introductory chapter we propose to explain how the constitution was framed, state its salient features, and also describe other minor matters.

Framing of the Constitution—It is hardly necessary for our present purpose to trace the evolution of the idea of an Indian Constituent Assembly. Mahatma Gandhi foreshadowed it in an article in *Young India* written in 1922 in which he explained the meaning and implications of Swaraj. It was also implied in the demand for a Round Table Conference tabled by the Swaraj Party in the Central Assembly in 1924. But the idea was first put forth in clear language in a resolution adopted by the Swaraj Party in 1934. It runs as follows : 'This Conference claims for India, in common with other nations, the right of self-determination and is of opinion that the only method of applying that principle is to convene a Constituent Assembly representative of all sections of the Indian people to frame an acceptable constitution'. The National Congress adopted a resolution at its Faizpur session held in 1937 in the course of which it demanded a Constituent Assembly elected on the basis

of adult suffrage to determine the constitution of the country. The Working Committee further explained its position in regard to the demand for a Constituent Assembly in a comprehensive resolution it passed in November 1939. The Ramgarh session held in 1940 also reiterated the demand. Pandit Jawahar Lal Nehru contributed a good deal towards the growth of this idea of Constituent Assembly.

For a long time the British Government paid no heed to this demand ; they stuck to the idea of the sovereignty of British Parliament over India and held that it was the duty of Parliament and of Parliament alone to determine the constitution of our country. But circumstances forced the British statesmen to concede it. It was done for the first time in 1940. Referring to the demand that the responsibility for their constitution should rest with Indians themselves Lord Linlithgow said in his statement of August 8 that the British Government were in sympathy with it and expressed their readiness to set up a body representative of the principal elements in India's national life for devising the framework of India's new constitution at the end of the war in Europe. The admission was halting ; the statement carefully avoided using the term Constituent Assembly. The omission was made good by the Cripps proposals in 1942. The Draft Declaration contained a clause providing for the setting up of a constitution-making body and outlined its composition. It was however the Cabinet Mission which made the idea a practical proposition and was actually instrumental in the setting up of the Constituent Assembly which framed the Constitution under which we live at the present time. The details of the scheme have been stated on pages printed above.

As a result of the intransigent attitude adopted by the Muslim League the Constituent Assembly which met at Delhi on December 9, 1946, under the temporary chairmanship of its oldest member, Dr. Sachhidanand Sinha, was not attended by the Muslim Leaguers from Bengal, the Punjab, Sind, N. W. F. P., U. P., etc. The League demanded a separate Constituent Assembly for Pakistan and refused to participate in a single constitution-making body. The only Muslims who attended its sessions were the Nationalist Muslims. The Assembly elected Dr. Rajendra Prasad as its permanent President.

The first thing the Constituent Assembly did was to adopt the Objectives Resolution moved by Pandit Jawahar Lal Nehru. The following are important extracts from it :

'This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution ;

'Wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of government are derived from the people ;

'Wherein shall be guaranteed and secured to all the people of India justice, social, economic and political ; equality of status, of opportunity, and before the law ; freedom of thought, expression, belief, faith, worship, vocation, association, and action, subject to law and public morality ; and

'Wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes ; and

'Whereby this ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind'.

The Preamble to the Constitution very closely follows the lines of the Objectives Resolution. A few words will be said about it later on. The Objectives Resolution was passed on January 22, 1947.

The Consembly then proceeded to appoint several committees to deal with different questions. The more important of them were Union Powers Committee, the Union Constitution Committee, the Provincial Constitution Committee, the Advisory Committee on Minorities and Fundamental Rights, and the Committee for negotiating with the Princes. The reports of these committees were considered by the Assembly and their recommendations adopted after discussion and amendment wherever necessary. On the basis of the decisions of the Assembly the Drafting Committee which was appointed on August 29, 1947, prepared a Draft Constitution. It was considered at great length by the Assembly and several amendments were made. The Constitution was finally accepted on November 26, 1949, after hard work extending over nearly three years. The New Constitution came into force on the 26th of January, 1950, exactly twenty years after the nation took the Independence pledge on Jan. 26, 1930.

It may be mentioned that the Constituent Assembly as it first met on the 9th of December, 1946, was not a sovereign body as a real Constituent Assembly should be. It was constituted on the lines laid down by the Cabinet Mission Plan which also set limits to

it both as regards its procedure and its basic principles. It could not go beyond them. But its character was radically changed as a result of the passing of the Indian Independence Act of 1947. The Act removed all limitations on its powers, and it became a fully sovereign body. Even then, it continued to suffer from one serious defect. It was indirectly elected; and those who constituted it were themselves elected by the people on a narrow franchise. This objection has only a theoretic value. In all likelihood its membership would not have differed greatly had it been directly elected on the basis of adult franchise. It contained all the important national leaders except Mahatma Gandhi who had contributed to the winning of national freedom ; it was fully representative of all the main bodies of public opinion in the country. The Socialists and the Communists, however, did not participate in it.

The task of uniting a heterogeneous population of over three hundred millions, speaking different languages, following different religious faiths and containing backward peoples was indeed difficult and tremendous. The existence of Indian States which suddenly found themselves freed from subjection to the authority of British suzerainty presented another difficult problem. They had to be brought within the orbit of a central authority, and despotic rule in them was to be liquidated. The British Government left another legacy behind them in the form of the communal problem. It is indeed to the credit of the Consembly that it performed the task with great success. It evolved a constitution which covers the whole of India and unites its various parts in an indissoluble Union. It has made the Centre strong enough to keep under control the centrifugal tendencies which have been the bane of our political life for centuries in the past. It has removed the evil of separate communal electorates which poisoned our body politic for several decades, and has at the same time afforded adequate guarantees to the minorities. It thus deserves the support of the nation which has grown from strength to strength under it during the few years it has been in operation and is bound to grow more and more.

Sources of the Constitution—Before describing the various features which mark out our Constitution from other constitutions and place it almost in a class by itself, it is desirable to refer to two important points. Firstly, it is necessary to bear in mind that those who framed it drew upon the experience of several democracies and

wove into their handiwork whatever of value they found in their systems of government. They did so because what they aimed at was a good and workable system and not an original or indigenous one. In realising their objective they succeeded remarkably well. Among the systems upon which they drew to varying degrees may be mentioned the British, the American, the Canadian, the Irish, and the Australian. The whole of its parliamentary apparatus may be said to be an adaptation from the British system; the name Union and the fact that all residuary powers are vested in the centre and not in the states suggest the influence of Canada. The long list of concurrent powers and the method of resolving the conflict between the Central and State legislation in that sphere are an adaptation from the Australian system. The whole idea of directive principles of State policy and the idea of nominating some persons to the upper chamber to represent Literature, Art, Science and Social Service come from the Irish system. In the wording of the Preamble and the setting up of the Supreme Court for the interpretation and defence of the Constitution the influence of the U. S. A. is visible.

Secondly, it is necessary to remember that many of the basic ideas and principles of the Government of India Act of 1935 have been incorporated in our New Constitution. It was this Act and its predecessor which introduced the parliamentary system of government in our country. By retaining this system we have maintained continuity with the past. The whole administrative set-up has been taken over almost bodily from the past. The idea of a strong central government in a federal union; the division of governmental powers in three separate lists,—union, state and concurrent; the administrative relationship between the government of the Union and the governments of the States; the adjustment of financial relations between them; the emergency powers of the President during periods of emergency, second chambers in the States and several other things have been adopted from the Act of 1935. There is nothing wrong or strange about this retention of what was old; it would have been strange had it been otherwise. It is both easier and safer to build on what is familiar than to go in quest of new and unfamiliar ideas and practices.

It would however be wrong to infer that our new constitution is a mere eclectic whole, a collection or jumble of provisions taken from varied sources. It has a coherence of its own; the various

provisions borrowed from outside have been adapted and adjusted to form a systematic whole. The framers of the constitution took from other systems whatever they found to be of value, and did not hesitate to depart from prevalent ideas and practices wherever they found it necessary or desirable to do so. This is best illustrated in the idea of a single citizenship and a single integrated judiciary for the whole country. As will be shown later on, our federal structure differs in several respects from the American, Swiss and other federal systems in the world.

It may also be mentioned here that our Constitution is a very long and elaborate document; it is longer and more comprehensive than even the Government of India Act of 1935. It contains 395 Articles arranged in twenty-two parts, and eight schedules. Some hold the view that this comprehensiveness is a serious defect; it introduces a degree of rigidity which stands in the way of its growth and adaptability to the changing conditions. There is not much which it leaves to usage or regulation by the legislatures as the French Constitution does. There seems to be some force in this criticism; to many minds a short constitution is preferable. But the peculiar conditions prevalent in our country necessitated the inclusion in the Constitution of matters which are not usually found in a constitution; *e. g.*, provisions concerning finance, property, contracts and suits, trade and commerce within the territories of the Union; services; elections; minorities and backward classes; official language and transitional provisions. Dr. Ambedkar sought to justify the inclusion of provisions concerning them on the ground that democracy in our country did not have a long tradition behind it and was 'only a top-dressing'. He did not think it desirable to leave it to the legislatures to determine such matters. It may therefore be concluded that its great bulk and the presence of provisions which usually do not find a place in a constitution are no positive demerits of our Constitution. The peculiar conditions prevalent in the country were greatly responsible for them.

Salient Features of the Constitution—After having explained the sources of the Constitution and referred to its inordinate length as a document, we now proceed to describe the salient features of the system of government set up under it.

1. Some of the salient features of our governmental system follow directly from the Preamble to the Constitution. It therefore

deserves to be reproduced in full. It runs as under :—

'We, the people of India, having sol mnly resolved to constitute India into a *Sovereign Democratic Republic* and to secure to all its citizens :

Justice, social, economic and political ;

Liberty of thought, expression, belief, faith and worship ;

Equality of status and opportunity :

and to promote among them all,

Fraternity assuring the dignity of the individual and the unity of the Nation' ;

In Our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution.'

The Preamble, in the first place, constitutes India into a *sovereign democratic republic*. To-day, India is a fully sovereign state in the same sense and manner in which Great Britain, the United States of America, and the U. S. S. R. are sovereign. The most important and concrete sign of the sovereign status of India is provided by the fact that the new constitution has been framed by the people through a Constituent Assembly without let or hindrance from without, as well as by the fact that in the administration of her internal affairs and the conduct of her foreign policy she is not subject to the control of any foreign power. Sovereignty resides in the people of the country and not in any outside authority as it did during the British period. It is alleged by some critics that the membership of the Commonwealth of Nations detracts from the sovereignty of India. The objection is not valid. The Commonwealth of Nations is an association of free states pursuing some common objectives. If the membership of the U. N. O. is quite compatible with the sovereignty of a nation-state, there is no reason why membership of the Commonwealth of Nations should be regarded as entailing a partial loss of sovereignty on the part of India. As a member of this Commonwealth India is not required to owe allegiance to the British King as the various Dominions do. Its former name 'British Commonwealth' implied some sort of priority of Great Britain ; this is no longer the case. Furthermore, its membership can be given up at any time. The only obligation India has as a member of the Commonwealth is to consult other members about matters of common interest or of international importance before

deciding about its own line or policy. India's decision to become a member of the Commonwealth was duly accepted by the Constituent Assembly. The great beauty of the non-violent way in which India won her national freedom lies exactly in the fact that after the end of India's struggle for freedom she and Great Britain retain friendly connections.

In the second place, the preamble declares India to be a *democratic* state. It is democratic inasmuch as in the language of the Preamble itself, the people have themselves adopted and enacted their own constitution, and the government derives its authority and sanction from the will of the people, we have a system of government in which the average citizen has access to the seat of authority. This is because the right to elect the representatives has been bestowed upon all adult citizens without any qualifications based upon property, literacy, *etc.* Those who constitute the government are responsible to the people. The highest offices are open to all citizens irrespective of sex, birth, creed or colour. The inclusion of fundamental rights in the Constitution also makes it democratic ; it protects the citizens against oppression on the part of government. But it should be remembered that ours is an indirect or representative democracy. Institutions of direct democracy like referendum, initiative and recall find no place in it. Our country is too large for them and also not sufficiently advanced in education and political training of the people.

In the third place, the Preamble declares India to be a *republic.* It is a republic because her chief executive or Head of the State is not a hereditary monarch like the British King but an elected president chosen for a limited period. The difference between a democracy and a republic must be understood ; the two are not identical. A country may have the democratic form of government without being a republic ; Great Britain is a democratic State but is a monarchy. On the other hand, a State may be a republic without being a democracy ; *e. g.*, under Hitler Germany was a republic but not a democracy ; many persons hold that Soviet Russia is not a democracy though she is a republic. India, like France, the United States of America and Switzerland, is a democratic republic. Whether a country is to be classed as democracy or not is determined by the form of its government ; democracy is opposed to aristocracy, monarchy and dictatorship. Whether a country is a republic or not is determined by the way in which the head of the State is appointed ;

the opposite of republic is monarchy.

In the fourth place, by declaring that the Constitution secures to all the citizens 'liberty of faith, belief and worship', 'equality of status and opportunity', and 'fraternity assuring the dignity of the individual' the Preamble makes India a *secular* state. The same end is achieved by (*i*) guaranteeing to all citizens freedom of conscience and the right freely to profess, practise and propagate any religion ; (*ii*) prohibiting discrimination against any citizen on grounds of religion, race or caste, in the matter of appointment to public offices or access to places of public resort.

Since secularism is a vital feature of the democratic republic which the Constitution sets up in our country, and since it is objected to and mis-understood by a section of our countrymen, a few words of explanation and defence seem to be necessary. By making India a *secular* state it is not meant that the government or the state becomes anti-religious or irreligious or that it cannot promote the higher or spiritual values of life. All that the phrase means is that the state is absolutely neutral in religious matters. There is no such thing as any official religion of the Indian Republic as Protestantism is that of Great Britain, or Islam that of Pakistan. The State cannot establish or endow any religion as Akbar tried to establish the Din-i-Elahi. In positive terms secularism demands that all the citizens shall enjoy equal rights and opportunities irrespective of differences in religious faith or creed. The profession of one religion shall not be regarded as a privilege or recommendation for public purposes, and the practice of another shall not be a hindrance or disqualification. A man's religion is a private relation between him and his God with which the State has nothing to do. Secularism in this sense is the logical corallary of religious tolerance which has become an integral part of the present civilization and for which Hinduism has been noted from times immemorial. It is also involved in the conception of 'India for all' which was the guiding motto of Mahatmaji and at whose altar he sacrificed his life. The recognition of and emphasis upon the *secular* character of the Republic was absolutely necessary in order to allay the fears of the Muslims and other minorities as regards their future and enable them to live in peace and as loyal citizens.

There is however a section of Hindus represented by the Hindu Mahasabha and the Rashtriya Swayam Sevak Sangh which views with

disfavour the idea of a secular Indian republic. It believes in a Hindu Rashtra and the propagation of Hindu culture as a reply to Pakistan with its emphasis on the Islamic way of life. It is afraid that a secular India cannot and would not give that encouragement to Hindu culture which, in its judgment, is its due. It is not relevant to our present purpose to subject this view of the Hindu Mahasabha and the R. S. S. to a critical examination ; we would content ourselves with pointing out two fundamental truths. First, it is not, and should not be, the aim of a State to promote any particular culture associated with any particular religious group within it ; all it can and may be expected to do is to promote the culture of the community in general by extending the bounds of knowledge and helping in the realisation of the supreme values of life,— truth, beauty and goodness. Second, there is no such thing in India at the peresent time as Hindu culture ; there is of course the Indian culture which is dominantly Hindu but has been greatly influenced and enriched by contact with the Islamic and Western cultures. To try to put an end to this synthesis of cultures, this meeting of the East and the West in India would be a great disservice not only to Hinduism and India but to humanity at large. To tay to exclude contacts with foreign culture would be to narrow and cramp our outlook and dwarf our minds and souls. Small minds and big states do not go together.

There is however one great danger lurking in the idea of a secular Indian state. The genius of our race has been spiritual. Whereas ancient Greece struck the note of intellectual greatness and contributed to humanity priceless intellectual treasures ; whereas ancient Rome struck the note of civic greatness and gave to mankind a wonderful system of law and administration ; ancient India struck the note of spiritual greatness and placed before mankind deep and eternal spiritual truths. These truths are preserved in the great epics, the *Ramayan* and the *Mahabharata*, and the *Bhagwad Gita*. If the secular Indian Republic ignores these great treasure-houses of spiritual knowledge, it would do itself great and irreparable injury. We wish that secularism in India should not be identified with a gross materialistic outlook, but should be made consistent with the attempt to propagate great spiritual truths which cannot be regarded as the exclusive possession of any particular religion or community. Secularism has been emphasised by our leaders chiefly with a view to

assuring the minorities. From that point of view it is unexceptionable ; it is the only possible attitude which a country like India with a composite population can adopt. It is not a threat to the culture of the majority and should not be regarded as such by it. The framers of the Constitution, however, took no steps to dispel this fear of the majority. They could have followed the Irish precedent and given an assurance to the Hindus similar to what the Irish Constitution gives to the Catholic Church by recognising it as 'the guardian of the faith of the great majority of the citizens'. The same could have been done easily enough in India.*

Lastly, attention may be drawn to the fact that the Preamble adds Justice to Liberty, Equality and Fraternity which constituted the slogans of the French Revolution. This addition is significant for two reasons. First, it is in conformity with the characteristic Hindu idea that the State exists for the promotion of Dharma by which it is sustained. Second, it brings India into line with the political systems of the West which have been greatly transformed by the growth of socialism during the last several decades. In view of the existence of the Depressed Classes, the poverty of the masses and the exploitation of one section of the society by another, the declaration that the aim of the Indian Republic is the establishment of social, political and economic Justice is most appropriate and welcome. It is also worth noting that Justice has been placed at the top of the list and thus assigned a place of honour.

2. While the Preamble constitutes India into a sovereign, democratic and secular republic, Article 1 of Part I of the Constitution declares India to be a Union of States. In other words, the Constitution gives India the federal system of government. It may seem strange that though India is a federation, the term federation has not been used anywhere in the document ; the word *Union* has been employed instead. The use of the word Union was deliberate ; it was preferred because it emphasises the unity and integrity of the country as a whole better than the other term does. As was pointed out by Dr. Ambedkar, the Drafting Committee used this term 'to make it clear that though India was to be a Federation, the Federation was not the result of an agreement by the states to join in a federation and that the Federation not being the result of an agreement, no State has the right to secede from it. The Federation

* Vide M. P. Sharma : *The Government of the Indian Republic*, page 32.

is a Union because it is indestructible.'

It must however be remembered that though India is a federation, her constitution departs from the ideal of a true federation in several vital and significant ways. She is not a genuine federation, but a quasi-federation having several features of a unitary state. The Constitution has been designed in such a way that, while normally working on the federal principle, it can be easily converted into a unitary system in an emergency. All that is needed to transform it from a federal into a unitary state is a proclamation of emergency by the President. So long as the Proclamation lasts, the autonomy of the States remains practically suspended ; the President can issue directions to the State-executives as to the manner in which their executive authority is to be exercised. There is no such provision in any other federal constitution.

The second feature which modifies its federal character and distinguishes it from the American system is the provision for a single and common citizenship for all Indians. While the U. S. A. has dual executive, dual legislature, dual judiciary and dual citizenship, our Constitution envisages a dual executive and legislature with a single and common citizenship. This is because the framers of the Constitution accepted and worked upon the basic truth that India is an integral whole and that her citizens constitute a single people living under a single imperium derived from a single source. Of a piece with the single citizenship is the provision for a single integrated judiciary for the whole country, common All-India Administrative and Police Services whose members hold high executive posts in the Union and the States, and uniformity in fundamental civil and criminal law. In short, the Constitution has tried to maintain, preserve and emphasise the essential unity of the country, notwithstanding the federal form of government. This is perhaps another reason why it has described India as a Union of States and carefully avoided using the term federation.

There is another matter also in respect of which the spirit of *unitariness* may be said to have been introduced in our federal system. Like all federal systems it provides for the statutory division of powers between the Government of the Union and the Governments of the States. But whereas in other federations the national government cannot encroach upon the legislative competence of the governments of the units by legislating upon any subject assigned to

them, our Constitution empowers the Council of States, the upper chamber of the Union Parliament, to declare any subject included in the State List to be of national importance, thereby authorising Parliament to make laws with respect to it. Even though such a resolution can remain in force for a period not exceeding one year, the provision is inconsistent with the true federal principle. It is an invasion on the autonomy and jurisdiction of the States.

Another vital point in which the Indian scheme departs from the strict principle of federalism deserves notice. The Constitution of the United States of America deals with the constitution, organisation, powers, etc., of the federal or national government alone ; it does not deal with the constitution of the States of the Union each of which has its own constitution. Unlike it, but like the Canadian Constitution, our Constitution contains provisions relating to both the Central and State Governments. The States have no constituent powers ; they have no right to alter, amend or repeal any provision of the Constitution. 'The Constitution of the Union and of the States is a single structure from which neither can get out and within which they must work.'* This feature of the Constitution can also be traced to the desire of its framers to emphasise and preserve the essential unity of the country.

Not only do the various units of the Indian Union lack the authority to frame and repeal and alter their constitutions, they do not even enjoy the guarantee of their separate and continued existence. Parliament has the right to alter their boundaries and change their names ; it can abolish a state and create a new one. The way in which the map of India is being changed in giving effect to the recommendations of the States Reorganisation Commission illustrates this point.

Following in the footsteps of the Government of India Act of 1935, profiting from the experience of the peoples of the U. S. A., Switzerland, and other countries having a federal constitution, and in view of the general tendency of federal constitutions towards a growth of the powers of the federal government, the framers of our Constitution have created a *strong* Central or National Government. They have conferred upon the federal government large and wide powers such as are not to be met with anywhere else ; save perhaps in Soviet Russia. The Union List contains 97 items and the

* Joshi : *The Constitution of India.* page 36.

Concurrent List 47 items. Residuary powers are also vested in the Centre. Governors of States are to be appointed by the President and are given the authority to watch over All-India interests. Past history and future needs necessitated a strong centre. It should be remembered that India fell a victim to foreign attacks because centrifugal or disruptive tendencies had been strong in the past. If she is to grow to her full height and stature and contribute to the progress of mankind the disintegrating tendencies must be kept in check and the various units of the Union held together. This requires a strong national government. 'Having regard to the political problems of India, the composition of her population, her economic requirements, and the danger of the intensification of local patriotism by the emphasis on the redistribution of States on a linguistic basis, effective solutions of her vital problems are only possible if they are attempted on an All-India scale'.* But however desirable and necessary a strong central government might have been, it could not have been established if one Constituent Assembly were to frame the constitution for an undivided India. The separation of Pakistan has enabled us to mould the constitution in ways demanded by the conditions. It has not been an unmixed evil.

The historical process of the formation of the Indian Union is also partly responsible for the creation of a strong central government and the presence of unitary tendencies in our constitution. As has been noted earlier on pages 221-1, whereas other federations were the result of the desire on the part of hitherto independent states for a closer union for the promotion of vital common interests, in our country the process has been the reverse. Here a unitary state had to be divided into autonomous provinces for the purpose of establishing a federation. There was thus no question of their parting with as little power as possible; it was a case of being content with as much as the Centre would easily concede. The British Indian Provinces were not autonomous under the Act of 1919; they were subject to the control of the Governor-General to a large degree even under the Act of 1935. It is little wonder States of the Indian Union do not enjoy the same measure of autonomy as the States of the that American Union or the Swiss Cantons do.

In the end, reference may be made to two other matters in which our Constitution differs from most other federal constitutions.

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* Joshi, *op. ct.*, page 39.

First, it does not secure equality of representation to the different units of the Union in the upper chamber of Parliament as the American and the Swiss Council do. This however is not a vital matter. Second, it has three legislative lists, whereas most other constitutions have only one or at the most two lists. In countries like the U. S. A. where the Constitution is a grant of powers to the Central Governments there is one list ; it positively enumerates the powers granted to the national government. The sphere of the State Governments is negatively determined ; whatever is not given to the Centre belongs to the States. In countries like Canada the opposite principle is observed ; the powers of the units are positively described and those of the Centre negatively so. Whatever does not belong to the units falls to the Centre. In some countries there is. in addition, the list of concurrent subjects on which both the central and the state governments have the right to legislate. In India we have adopted a new method ; our Constitution, following the example set by the Government of India Act of 1935, specifically enumerates the powers assigned to the federal government in one list, those assigned to the States in another list, and concurrent powers in a third list. There is no other constitution, save the Weimer Constitution, having three legislative lists. The attempt has been made to make the division as exhaustive as possible. Residuary powers are vested in the Centre.

Sufficient has been said above about the differences between the federal constitution of our country and those of other countries, and stress has been laid on the fact that the federal principle has been attenuated to a large extent and the central authority greatly strengthened. The theory of coordinate powers of the centre and the units does not apply to our Federation. But some critics go to the extreme and deny that it is federal at all. Dr. Wheare, for example, says that India is 'a unitary state with subsidiary federal features rather than a federal state with sudsidiary unitary features'. We differ with such a view. India has all the features of a federal constitution ; our Constitution provides for a statutory division of powers between the federal government and the governments of the units, the supremacy of the written constitution, a Supreme Court to act as the interpreter and defender of the Constitution, dual polity with dual executive and dual legislature, limited government, and the impossibility of amending the constitution in vital matters without

the consent of a majority of States. The presence of a few features characteristic of unitary states cannot be sufficient reason for denying its federal character. All that we are justified in holding is that the Constitution makes India a federal state with subsidiary unitary features, and at the most that it is quasi-federal. It would be going too far to assert that India is a unitary state with subsidiary federal features. India starts her federation from the point where the U. S. A. had reached after her working of the federal principle for 150 years, and has tried to avoid the weakness of her system. She has made her centre strong because the call for unity is great and the dangers of disruption through lack of power at the centre very real.

The fact that our constitution is federal with subsidiary unitary features is sometimes sought to be expressed by saying that it is *federal-cum-unitary*. This phrase is rather unhappy ; it is not easy to conceive how one system of government can be federal and unitary at one and the same time. It is better to avoid using such misleading phrases. No one denies the fact that our constitution has certain features which are a departure from the strict federal principle ; but their presence is not sufficient reason for declaring it unitary. The most that we can say is that it is federal with a unitary bias in some respects.

3. In the third place, the Constitution sets up the *parliamentary* type of government, both in the Centre and in the States. Although India resembles the United States of America in being a republic and in being a federation, her system of government is modelled on the British system. As she is a republic, the Head of the State in India is called President like the American Chief Executive ; but for an understanding of the role he plays in the public life of the country we have to compare him to the British King and not to the American President. The President of the Indian Republic and the Governors of the States are constitutional heads like the King of Great Britain and not effective ruling authorities like the American President. Our system of government is not based on the doctrine of Separation of Powers and the system of Checks and Balance ; it is rather founded on the supremacy of the legislature and the responsibility of the executive to it. The Constitution vests executive authority of the Union in the President but at the same time sets up a Council of Ministers to aid and advise him in the discharge of his duties and makes the latter responsible to the legislature and its tenure of office

dependent on its will. Just as the architects of our Constitution have modified the federal principle in the direction of unitariness to suit Indian requirements, so they have conferred upon the President some powers whose exercise appears to be incompatible with the parliamentary form ; *e. g.*, the right to send messages to Parliament and return bills to it for reconsideration.

On a par with the description of our constitution as federal-cum-unitary to which reference was made in the last but one paragraph, there is its characterisation as *parliamentary-cum-presidential* ; this phrase is even more unhappy than the first ; nay, it is devoid of sense. It is ununderstandable how one system can be both parliamentary and presidential at one and the same time ; no one has described the Swiss system in this way which contains features of both the types. That the Head of the Indian Union is called President and all executive action is taken in his name does not make our system of government presidential. It is cent per cent parliamentary and not in the least presidential. That one or two powers assigned to the President are similar to those possessed by the American President is not a sufficient excuse for calling it presidential.

4. It is customary to classify constitutions into flexible and rigid. The British Constitution is cited as the classical example of the flexible type, and the American of the rigid type. The unique feature of our constitution is that it is at once rigid and flexible. It is rigid in the strict and technical sense of the term ; the process of amending it is different from that of ordinary legislation. It has been described elsewhere in this chapter. It could not be made flexible in the technical sense of the term without destroying its federal eharacter. Nevertheless, it is flexible in so far as some of its provisions can be amended by Parliament in the ordinary way. It is also flexible in the sense of being elastic ; it is capable of change and adjustment in accordance with circumstances and can meet eventualities without undergoing the formal process of amendment. For example, inspite of its federal character it can be made to function as a unitary system in periods of national emergency. After the emergency is over it can resume its normal form without any damage to its essence. Although Parliament has no power to legislate on a State subject in normal times, it can do so when any such subject is declared to be of national interest by the Council of

States. 'Bryce compares such a constitution to the supple twigs of a tree which move away from their place temporarily to let a high carriage pass from under them and then resume their place quietly'.* In being elastic it resembles the British system. But whereas the flexibility of the British constitution is due to its unwritten character and the absence of distinction between constituent and ordinary law-making authority, the flexibility of the Indian system is the result of express provisions contained in the Constitution itself.

5. As the Simon Commission and the Joint Parliamentary Committee were both opposed to the inclusion of fuudamental rights of citizens in a constitutional document, the attempt of Indians to secure their inclusion in the Government of India Act of 1935 did not bear fruit. The framers of our new Constitution have made good the deficiency and inserted a chapter declaring the fundamental rights of the citizens in it. Though this cannot be regarded as a unique feature of the Constitution—the constitutions of several countries contain similar declarations—it is an important matter. It means that our constitution 'embodies the gains of the social revolution of the past century'.† Mention may also be made of the Directive Principles of State policy. These subjects will be treated at great length in Chapter XIV.

6. Besides the declaration of Fundamental Rights, there is another thing also which the Constitution grants to Indians for the first time, namely, adult franchise. The Indian National Congress made a persistent demand for the introduction of universal franchise in the country, but our British masters did not introduce it. The Constitution makes good this deficiency also.

7. The Constitution abolishes separate communal electorates which were granted to the Muslims by the British statesmen in 1909 in the pursuit of their policy of divide and rule, and extended by the Acts of 1919 and 1935 to Sikhs, Anglo-Indians, etc. Their abolition eliminates a deadly poison which was injected deliberately and maliciously into our body politic.

8. In order to give to the citizens the sense of security against arbitrary government and invasion of their fundamental rights by the executive the Constitution establishes a Supreme Court independent of the executive and of political influences. It not only

* M. P. Sharma : *The Government of the Indian Republic*, page 36.

† Chanakya : *The India Revolution*, page 137.

interprets the Constitution but also upholds it. Reference should also be made to the provisions in regard to the civil services which have been incorporated chiefly with a view to the forging of a steel frame for preserving the unity of India and ensuring to every community a fair and equal chance in the public services.

9. In the end we would refer to a grand achievement of the Constitution. By one stroke it has put an end to the age-old and disgraceful institution of Untouchability in every form. It makes the enforcement of any disability arising out of untouchability an offence punishable in accordance with law. This is a great step towards the achievement of social equality, and the fulfilment of one of the earnest desires of the Father of the Nation.

The Vital Aims of the Constitution—After reading the Preamble, the declaration of fundamental rights, the provisions about the judiciary, the public services, etc., one is left with the conviction that the overwhelming anxiety of the fathers of the constitution was two-fold : (*i*) They wanted to guarantee 'a sense of justice, equality, freedom and security to the citizens and to all minorities in India, and to uphold the principle of a composite secular state. 'Every section of the Constitution provides evidence of this burning desire to satisfy the racial, religious and ethnic groups outside Hinduism that India is not going to be a Hindustan—a country exclusively of Hindus in which other communities exist only by sufferance'.* (*ii*) They aimed at preserving and strengthening the unity of the country and preventing the fissiparous and disruptive tendencies from gaining the upper hand. This accounts for a strong central government and the unitary features of the federal system.

Comparison with the British System—It should have become clear that inspite of the fact that it declares India to be a federal republic, our Constitution is largely modelled on the British pattern. Our system of government is parliamentary and our President is the constitutional bead of the State like the British King. Our administrative set-up also follows the British model. Nevertheless, it differs from the British system in some respects. Firstly, ours is a written constitution while that of Great Britain is mainly unwritten. Secondly, technically, our Consitution is rigid ; the method of amending it differs in important respects from the process of ordinary legislation. Even though an effort has been made to introduce in it

* Chanakya : *The Indian Revolution*, page 140.

a degree of elasticity and minimise the dangers which arise out of legalism and rigidity, it is not so flexible as the British. But the most vital difference is that our Constitution does not recognise the principle of Sovereignty of Parliament which is the basis of the British system. What we have is the *supremacy* of the legislature over the executive—a thing different from the *Sovereignty* of the Legislature. As would be shown in another context the High Courts and the Supreme Court have the right to interpret and defend the Constitution and to refuse to recognise as valid any law passed by Parliament if it conflicts with the Constitution. In other words, our Constitution recognises the principle of Judicial Review which has no place in Great Britain. This may be regarded as another salient feature of our Constitution.

A Criticism—We would conclude this account of the salient features of our Constitution with reference to a charge sometimes levelled against it that it is not based on our indigenous traditions and culture and has nothing of Swadeshi about it. It is an assemblage of what our constitutional pundits and experts deemed to be of value in the political systems of Great Britain, United States, Canada, Ireland, etc. Not only no attempt was made to shape it in conformity with the genius of the Indian people or what may be called the soul of the nation, the principle of decentralisation of political and economic power which the Father of the Nation always advocated has also been quitely ignored. It is well known that Mahatma Gandhi wanted to rebuild India on the basis of self-contained and self-governing and self-educated village communities. Our Constitution nowhere accepts the principle of decentralised democracy ; following in the footsteps of the western systems it has tried to reproduce in India a highly centralised state. All that it does in the way of paying homage to the convictions of the Father of the Nation is to direct the State to organise village punchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.*

That the Constitution has discarded the village community as its basis and adopted the individual as its unit is not accidental or due to ignorance ; it was deliberate. There were persons in the Constituent Assembly who advocated a constitution based on well-knit and organised village communities ; they wanted a decentralised

* Articles 40, Part IV, Principles of State Policy.

democracy. Answering such persons Dr. B. R. Ambedkar, the Chairman of the Drafting Committee, made a slashing attack on the ancient village communities. He said that their role in history was confined to bowing down to wave after wave of invasion from outside and settling down quitely to their business after the wave had passed. He ascribed the downfall of India to the spirit of localism and narrowmindedness and communalism generated and fostered by the village communities. It is no doubt true that they survived but they survived at a low selfish level. He could feel no pride in their achievements.

It is not relevant to our purpose to examine the truth or falsity of the view expressed by Dr. Ambedkar ; what we propose doing is to try to understand why it was that the Constituent Assembly rejected the Gandhian plan in favour of the parliamentary system where power is concentrated at the top and not at the bottom. There seem to be two main reasons for the decision. First : the implications and details of the Gandhian scheme of self-governing and self-supporting village communities were not worked out in sufficient detail. In the absence of such details it would have been hazardous to venture upon the experiment. Second : it was impossible for the framers of the Constitution to wipe off the hundred years of British rule during which India was made to tread along the road towards parliamentary system. To have rejected the parliamentary system in favour of any other plan would have been to retrace the steps which was impossible. In short, the Fathers of the Constitution had little choice ; they could not undo the past. The Parliamentary system is the logical consequence of the political development during the last one hundred years of British rule.

Units of the Federation—India, that is Bharat, is officially described in the Constitution as a Union of States. This means that all its units, irrespective of differences in their political status and form of government, are called by the same name. With the exception of Andaman and Nicobar Islands, each one of them is called a State. In a way this is an improvement upon the Government of India Act of 1935 under which some of the units of the proposed federation were known as Provinces and others as States. In another and more important matter also the new Constitution unites under a common polity greatly *similar* units. This has been achieved by the integration of smaller princely States of the old regime into

larger Unions and giving them the same type of government as exists in the other units.

Nevertheless, it cannot be said that all the States of the Indian Union are perfectly similar and homogeneous. The First Schedule arranges them into four parts A, B, C, and D. The States included in one part differ from those in the other parts in some respects. This is not the case in the U. S. A., U. S. S. R., Canada, *etc.*, where all the members of the federal union have the same status and the same form of government.

Assam, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, United Provinces (renamed Uttar Pradesh) and Bengal are put in Part A. They correspond to the Governor's Provinces under the Act of 1935. They have had some experience of parliamentary form of government and are sufficiently advanced politically. The Head of the State is known as the Governor who is appointed by the President.

Hyderabad, Jammu and Kashmir, Mysore, Madhya Bharat, Patiala and East Punjab States Union, Rajasthan, Saurashtra, and Travancore-Cochin, are known as Part B States. The first three are the old States as they existed during the British period; the other five States have come into being as the result of the process of integration and unionization. The multiplicity of Indian States under the British regime and their varied and heterogeneous nature constituted the most potential threat to the unity and progress of the country. The multiplicity has been reduced to manageable proportions by uniting or integrating most of them into bigger Unions which could become viable units for administrative purposes. Such of them as could not be made into parts of a bigger Union were merged into the States with which they were closely related. Thus Kolhapur and Baroda became parts of Bombay; and Rampur, Tehri-Garhwal and Banaras were merged with Uttar Pradesh. The Head of each Part B State is known as Rajpramukh and is appointed in a way different from that in which the Governor of a Part A State is appointed. Since these States have had little or no experience of the working of democratic institutions, and parliamentary institutions have been introduced in them for the first time under the new Constitution, it has been thought desirable and necessary to keep them under the control of the Central Government for the first ten years. Otherwise the system of government in Part A and Part B

States is similar.

Vindhya Pradesh formed as a result of the integration of the Bundelkhand States was originally included in Part B States. Later on it was made into a Chief Commissioner's Province and put in Part C. There was a talk of splitting it up and merging one part in U. P. and the other in Madhya Pradesh.

Ajmer, Bhopal, Bilaspur, Coorg, Delhi, Himachal Pradesh, Cutch, Manipur, Tripura and Vindhya Pradesh, are known as Part C States. Some of them were known as Chief Commissioner's Provinces under the old regime, and others are small Indian States which have neither been merged into a neighbouring State nor integrated with other States as Part of a new unit; *e.g.*, Bilaspur and Manipur. Cooch-Bihar was also a Part C State, but it has been merged into Bengal. These States were considered too small to be made into autonomous and democratically governed units ; their administration was made a concern of the Government of the Union. The President appoints officers known as Chief Commissioners to administer their affairs. They thus have little of autonomy. None of them except Coorg had a legislature. Parliament was, however, authorised to set up legislatures or Councils of Advisers in them. Recently Parliament has passed a measure for the establishment of legislatures in some of them.

Andaman and Nicobar Islands form a separate unit. They do not constitute a State and are centrally administered through a Chief Commissioner.

Admission or Establishment of New States—The Constitution makes provision for the admission or creation of new States as well as for altering the names, areas and boundaries of existing States. The name of the United Provinces was changed into Uttar Pradesh, and its area increased by the merger of Rampur, Tehri-Garhwal, etc. Similarly, Cooch-Behar was merged in Bengal. The boundaries of the Madras State were radically altered by the creation of the new Andhradesh State. There had been a persistent demand for redistributing the existing States on a linguistic basis. It was to meet this demand that a provision enabling Parliament to form a new State by separating territory from any existing State, or by uniting two or more States or parts of States, has been included in the Constitution. Laws made by Parliament for this purpose are not deemed to amend the Constitution and do not require the consent of the legislatures of

the States. This provision illustrates the flexible character of our Constitution. It also constitutes a serious infringement on the autonomy of the States and is inconsistent with the principles of genuine federalism. It means that no State has any guarantee of continued and stable existence ; there is no safeguard against its abolition. It may be added that the States Reorganisation Commission which was appointed by the President has submitted its report which is being considered by the Government. In the very near future the map of India would be redrawn and some old states would disappear, and new ones would come into being. The old distinction between A and B and C States would be abolished.

It is, no doubt, true that such a change can be effected only by following a prescribed method and after fulfilling certain conditions. No bill for this purpose can be introduced in Parliament except on the recommendation of the President who is required by law to ascertain the views of the legislature of the State or States affected by it. But he is not bound to respect the wishes of the affected State or States and may recommend action contrary to them. The suggestion that after the necessary changes and adjustments have been made the provision should be so amended as to give greater security to the States deserves consideration.

Distribution of Powers.— A federal constitution essentially presupposes statutory distribution of powers between the central or federal government on the one hand and the governments of the federating units on the other hand. Each government is supreme in the sphere allotted to it, and its authority within that sphere cannot be curtailed. The Indian Constitution also divides the totality of governmental powers between the Union Government and the Governments of the States. The scheme of distribution follows, in the main, the lines of the Government of India Act of 1935. The items of legislation are divided into three lists known as the Union List, the State List, and the Concurrent List. The Government of the Union has *exclusive* power to legislate on items included in the Union List ; the Governments of the States cannot make laws concerning them. The Governments of the States have the right to legislate on items included in the State List ; the Government of the Union cannot legislate on any of them except in an emergency or when national interests demand such a course and the Council of States passes a resolution to that effect by a two-thirds majority, or

when two or more States request Parliament to legislate for them on a subject. Both the Union Government and the Governments of the States have the power to legislate on topics included in the Concurrent List. Measures enacted by the Union Government on items included in this List shall have precedence over those enacted by the Governments of the States. Residuary powers are vested in the Union Government ; Parliament has been given the exclusive right to legislate on any subject not enumerated in the State List or the Concurrent List.

The enumeration of subjects in the three lists is most elaborate and exhaustive, more so than in any other federal constitution in the world. Indeed, with the exception of the Weimer Constitution of Germany which had five lists, ours is the only constitution to have three legislative lists : the other constitutions have at the most two lists.

The Union List covers a very large number of subjects— as many as 97 as compared to the 61 subjects included in the Federal List in the Act of 1935. The sphere of the activities of the Union Government has been considerably enlarged with a view to making it strong in conformity with modern trends ; all those powers which experience has shown to be necessary or desirable have been conferred upon it. The subjects assigned to the Union Government are subjects of nation-wide interest ; they affect the citizens of the Union as a whole irrespective of their residence, and it is deemed necessary that there should be uniformity of legislation and administration in regard to them. The more important of them are the following : defence ; naval, military and air force ; arms, firearms, ammunition and explosives ; atomic energy ; preventive detention for reasons connected with the defence and security of the country and its foreign relations ; foreign affairs ; international obligations ; war and peace ; citizenship ; naturalisation and aliens ; railways ; shipping ; airways ; posts and telegraphs ; telephones, wierless, and broadcasting ; public debt ; currency, coinage, and foreign exchange ; Reserve Bank of India ; foreign trade and inter-state commerce ; banking ; bills of exchange, *etc.* ; insurance ; patents ; weights and measures ; mines and oilfields ; salt ; institutions like the National Library, the Indian Museum, the Hindu University, and the Muslim University ; Survey of India : census ; Supreme Court, the constitution and organisation of High Courts ; Union Public Service Commission ; inter-state migration ; income-tax ; estate duties ; terminal taxes on goods and

passengers, on railway fares and freights ; tax on the sale of newspapers ; and any other matter not enumerated in the State List or Concurrent List. The last item means that residuary powers belong to the Union Government.

The State List contains 66 subjects (the Provincial List in the Government of India Act of 1935 contained 56 subjects). The State Legislatures have been given the power to legislate on these subjects ; as has been pointed out earlier, the Union Legislature has no right to make law concerning any one of these subjects except in the case of national emergency or with the consent of two or more States. They are usually of local or provincial interest ; concerning them there can be diversity of legislation and administration. The more important of the subjects are the following : public order ; police, including railway and village police ; administration of justice ; prisons and reformatories ; local self-government ; public health and sanitation, hospitals and dispensaries ; production and sale of intoxicating liquors ; relief of disabled and unemployed persons ; university education ; roads, bridges, and ferries ; veterinary training ; cattle ponds ; canals and irrigation ; land revenue and tenure ; forests ; fisheries ; industries ; trade and commerce within the State ; markets and fairs ; cinemas, etc. ; State Publie Services Commission ; public debt of the State ; taxes on agricultural income ; estate duty in respect of agricultural land ; and a number of minor taxes, *e. g.*, on the sale of electricity, animals and boats, professions and callings, luxuries, etc.

The Concurrent List includes 47 subjects concerning which both the Union Parliament and the State Legislatures have the right to make laws. In case of inconsistency between the laws made by the Union and those made by a State, the laws made by the Union Parliament are to prevail. The following are the more important of the subjects included in the Concurrent List : criminal law and procedure ; civil law and procedure ; preventive detention for reasons connected with the safety of the State ; marriage and divorce, adoption, wills, intestacy and succession ; joint family ; bankruptcy and insolveny ; trusts ; evidence and oaths : prevention of cruelty to animals ; alulteration of foodstuffs ; trade unions ; labour welfare ; legal, medical and other professions ; vital statistics ; price control ; factories ; boilers ; electricity ; jurisdiction and powers of courts ; relief and rehabilitation of refugees from Pakistan.

These are matters concerning which uniformity of legislation throughout the country is desirable, but their administration can be easily left in the hands of local governments. The central government can lay down general principles which should apply all over the country ; the States can make laws within their framework to suit their own requirements. Switzerland, Australia and a few other federations have concurrent lists. It may be added that the tendency in the newer federations is to make the concurrent list longer and longer.

But there is one provision in our Constitution the like of which is not found in other countries. Parliament can legislate on a subject like agriculture, cooperative societies, production, supply and distribution of goods included in the State List if the Council of States declares it to have assumed national importance. This means that the Concurrent List can be enlarged by the transference of subjects from the State List. This also makes the Union Government strong.

It is a great merit of our Constitution to have taken note of the unmistakable tendency of federations towards greater centralisation and to have given to the their govt almost all the powers which experience has shown to be to necessary for it to passes.

Official Language.— Article 343 declares Hindi written in Devanagari script to be the official language of the Union, but the numerals to be used for official purposes are to be international. This exception in favour of international numerals was made to meet thė demand of the representatives from South India.

Since it was not feasible to substitute Hindi for English as the official language all at once, the Constitution allows the use of English for all official purpose of the Union for a period of fifteen years from the commencement of the Constitution. But even during this period the President may authorise the use of Hindi in addition to that of English far any official purposes of the Union and also the use of Indian numerals. This provision is to facilitate the progressive use of Hindi during the transitional period so that the change-over to English at the end of fifteen years may not be abrupt. Parliament may retain the use of English language for specified purposes after the expiry of the first fifteen years.

Every State is authorised to adopt by law any one or more languages current in it or Hindi for official purposes. Assamese, Bengalee, Gujrati, Hindi, Kannarese, Malayalam, Marathi, Oriya,

Punjabi, Kashmiri, Sanskrit, Tamil, Telugu, and Urdu are the languages recognised for this purpose.

Citizenship of the Union.— Since our Constitution locates sovereignty in the entire body of citizens and also guarantees to them certain fundamental rights, it was necessary for its framers to determine who the Indian citizens are. The rules for determining it are laid down in Part II of the Constitution.

Two points should be borne in mind in dealing with this subjects. First, as has been shown earlier in this chapter, our Constitution provides for a single and common citizenship for the whole country and rejects the idea of dual citizenship which is a prominent feature of the American federal system. There is no such thing as the citizenship of U. P., or Bengal, or Bombay, *etc.* : all of us are citizens of India and enjoy the same rights and obligations whether we reside in the north or in south, in the east or in the west of the country. Second, the Constitution does not try to regulate the law of citizenship for the Union in any detail ; it contains no provision in regard to the acquisition or loss of citizenship and other matters ; they are left to be determined by Parliament in the light of changing requirements from time to time. All that the Constitution does is to lay down the qualifications for Indian citizenship at its commencement. This was a wise decision ; nationality is not a matter which the constitution can determine once for all time.

For determining the group of persons who shall be deemed to be Indian citizens at the time of its inauguration the Constitution adopts a three-fold basis ; namely, birth, descent and residence. It lays down that every person having a domicile in India at the commencement shall be an Indian citizen, if (a) he was born in the territory of India, or (b) either of his parents was born in India, or (c) he has been resident in the country for at least five years immediately preceding the inauguration of the Constitution.

The implications of this provision as regards the classes of persons who are included in the category of Indian citizens, as well as in respect of those whom it excludes from it, deserve to be studied. It definitely excludes all those Hindus and Sikhs, who were born in the territories now constituting Pakistan but had to flee that country on account of the communal disturbances there. To enable such persons to become Indian citizens the Constitution lays down

the following provision : A person who migrated to India from Pakistan before July 18, 1948, shall be deemed to be a citizen of India if either he or any of his parents was born in undivided India and he has been residing in the territory of India since migration from Pakistan. No certificate of registration is necessary in the case of such persons. Persons who migrated on or after July 19, 1948, will be deemed to be citizens of India if either they or any of their parents were born in undivided India and were *registered as refugees* by an officer appointed for the purpose by the Government, and have been residing in the country for at least six months immediately preceding their application for registration. Residence, birth or descent are thus insisted upon in each case.

But there were also persons, mainly Muslims, who left India for Pakistan either with a view to settling there or out of panic and fear. Such persons are not entitled to become Indian citizens for they do not fulfil the qualification as regards residence. But if any such person returns from Pakistan with the permission of the Government of India under a permanent permit of settlement, he can get himself registered as an Indian citizen. This provision is meant to cover the cases of Nationalist Muslims and of those Muslims in the service of the Government of India whose families migrated to Pakistan due to fear.

It is held by some critics of the Constitution that by throwing open citizenship to persons born and domiciled in the country it makes it very esay for India-born sons of foreign capitalists and industrialists to acquire the rights and privileges of Indian citizenship. They see in it the possibility of the continued foreign exploitation of the country. There seems to be some force in the criticism ; it can, however, be met by pointing out that in all such cases Parliament has the power to regulate the law of citizenship, and prevent the evil.

The Constitution has not forgotten Indians overseas. Any person residing outside India can secure the rights of Indian citizenship by getting himself registered as a citizen of India through a diplomatic or consular representative of India abroad, provided he or any of his parents or grand-parents was born in undivided India.

Summing up, we can say that three, distinct classes of persons constitute Indian citizens : (*i*) those born and living in the country ; (*ii*) those who have migrated from Pakistan and settled here ; and (*iii*) Indians overseas. No caste or religious qualifications have

been laid down for acquiring the right. Of course, no person can be a citizen of India who voluntarily accepts the citizenship of any foreign land. Muslims born in India but now resident in Pakistan as its citizens are thus excluded from the privilege.

Amendment of the Constitution—We would conclude this introductory chapter with an account of the process by which the Indian Constitution can be amended.

It is recognised on all hands that in order to secure the stability of its provisions and place them above the whims and passing emotions of temporary party majorities a constitution should be rigid. A special procedure should be laid down for amending it so that changes in it may not be made very easily. But change is the law of life ; a constitution must also change and grow with the changing needs and requirements of the community. It should, therefore, have a certain degree of flexibility or elasticity. ' Our constitution fulfils this double requirement admirably ; it combines the opposite qualities of rigidity and flexibility as few other constitutions can be said to do. As was remarked by Pandit Jawahar Lal Nehru : 'While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in constitutions. We could not make this Constitution so rigid that it cannot be adapted to changing conditions. When the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow.'

This end has been achieved by making the process of amendment easy and simple so far as matters which are not fundamental and vital are concerned, but comparatively more difficult in regard to its basic federal principles. Even in regard to the latter, it avoids the use of difficult and time-consuming processes like referendum and popular initiative. For purposes of amendment the provisions of the Constitution fall into three distinct classes or categories. Some of them can be altered, repealed or amended by Parliament in the ordinary way without resort to any special procedure ; e. g., the creation or abolition of second chambers in the States ; changes in the names, boundaries and areas of the States ; and the administration of centrally administered areas. In regard to them the Constitution is flexibile. To the second category belong matters which can be amended by Parliament without any concurrence on the part of the State Legislatures, but by special majorities. To the third

class belong important and basic matters whose amendment requires joint action by Parliament and the legislatures of at least half of the Part A and B States. The initiative for amendment in all the three cases has been vested in the Union Parliament. Neither the State Legislatures nor the people have any say in proposing constitutional amendments. In regard to their provisions the Constitution is rigid. We shall first describe the process of amendment in regard to the vital federal principles falling under the third category, and then add a few words about those coming under the second class.

If the proposed amendment relates to (1) the manner of electing the President, or (2) the composition and powers of the Union and State Judiciary, or (3) the extent of the authority of the Government of the Union, or (4) the relationship between the Union and the States, or (5) the Union, State and Concurrent Lists, or (6) the representation of States in Parliament, the bill proposing the amendment may be introduced in either House of Parliament. If it is passed by each House separately by a majority of not less than two-thirds of the members of the House present and voting and also by a majority of its total membership, it will be sent to the legislatures of Part A and Part B States. If it is ratified by not less than one-half of these legislatures, it shall be presented to the President for his assent, and shall become valid on receiving such assent. In short, as regards matters which concern the federal polity vitally and affect the rights and interests of the States no amendment can be effective, unless (i) it is passed by both the Houses of Parliament by special and great majorities, and (ii) it is ratified by the legislatures of not less than one half of the Part A and Part B States. If one House of Parliament accepts the amendment but not the other, or if it is not ratified by the requisite number of State Legislatures, the amendment lapses.

In other matters which are not specified (leaving aside those coming under the first category) the proposed amendment becomes effective if it is adopted by each House of the Union Parliament separately by a two-thirds majority of the members present and voting and also by an absolute majority of the total strength of the House and receives the assent of the President. No ratification by the legislatures of the States is necessary in such a case. It should be remembered that the initiative for amendment can come only from either House of Parliament. State Legislatures cannot initiate any

amendment. Unanimity of State Legislatures is not required for amendment, not even 3/4 majority as in the U. S. A. No power is reserved to the people either.

CHAPTER XIV

Fundamental Rights and Directive Principles

Introductory—The declaration of fundamental rights of the citizens constitutes a significant and important feature of the Indian Constitution ; it marks a radical departure from the past tradition under British rule. The Government of India Act of 1919 and that of 1935 did not contain anything even remotely resembling it. This was because those Acts were not designed to establish a genuinely democratic system of government in our country; they were motivated more by the thought of keeping the executive strong and powerful as against the citizens than by the desire to safeguard and protect the latter against governmental encroachment on their civic and political rights and liberties. The New Constitution, on the other hand, has been framed with a view to giving India a really democratic polity; it was one of the chief desires of its architects to guarantee justice, liberty, equality and fraternity to the citizens. Its framers proceeded on the assumption that the State exists for promoting the welfare of the individuals and helping them to enrich and expand their personalities. Since to secure enjoyment of certain rights is indispensable for this purpose, they deemed it necessary to secure those rights by incorporating them in the fundamental law of the land. In this respect they have followed the example set by France and the U. S. A., and adopted by Switzerland, U. S. S. R., and several other countries. Great Britain and the British Dominions have not adopted this practice; their constitutions do not contain any declaration of rights of citizens. Individual liberty is safeguarded there by the Rule of Law, the tradition of liberalism in the country and the good sense of people.

The Nature of Fundamental Rights—'The theory of fundamental rights implies limited government. It aims at preventing the government and the legislature from becoming totalitarian, and in so doing

it affords the individual an opportunity for self-development'.* It is necessary to understand how the theory of fundamental rights means limited government. The rights which a constitution guarantees to the citizens are usually known as *fundamental rights*. They are called fundamental because they are inviolable in the sense that the legislative or executive organ of the state cannot infringe them. If the legislature makes a law or the executive frames a rule or regulation or adopts a line of action which is inconsistent with any fundamental right of the citizens or abridges it, it is null and void to the extent of its inconsistency. The law courts will refuse to apply and enforce such a law, etc. The inclusion of fundamental rights in the constitution of a country thus puts a great check or restraint upon the government, and invests the rights of the citizen with great sanctity. Security of rights is an important condition of the self-development of individuals. It serves to protect them from oppressive public authority. This analysis of the nature of fundamental rights shows that they are justiciable ; a person can always have recourse to a law court, if the government invades or infringes his fundamental rights. This is the main reason why rights guaranteed by the constitution always command the respect of the government and the citizens ; without such a security their inclusion in the constitution would not be of much value. Without the effective guarantee provided by judicial review the rights may remain merely paper rights. Our Constitution has thus done the right thing in making the rights justiciable.

It should always be borne in mind that no right can be absolute, not even the fundamental rights incorporated in a constitution. Rights are always relative ; their enjoyment is always subject to certain limitations and restraints imposed by the state in the interests of its own safety, public security, considerations of morality and public good, etc. Rights can never be absolute, because the individuals for whose self-development they are the indispensable means are themselves not absolute. The datum is not an abstract or isolated individual, but an *individual-in-society*. His rights must, therefore, be viewed in the social context ; they are nothing but different ways of stating human relationships. It is, therefore, not strange or wrong that our Constitution should have imposed some restrictions upon the fundamental rights granted to the citizens, and

* *Our Constitution* : Government of India Publication, page 16.

subjected their enjoyment to the requirements of public order. The limitations will be discussed at a later stage.

Fundamental Rights—The enumeration of fundamental rights in our Constitution is more elaborate and comprehensive than in any other constitution. They are described under two heads, fundamental rights and directive principles of state policy. The difference between the two parts is that whereas the rights enumerated under the heading Fundamental Rights are justiciable, what is laid down under the caption Directive Principles of State Policy is not enforceable through law courts. Nevertheless, the latter are fundamental in the sense that the government of the country is directed by the Constitution to strive hard to give effect to them.

The importance attached to fundamental rights in our Constitution is evident from three things. First, it makes them secure against encroachment by private individuals, Government of the Union, Governments of the States and even local bodies like Municipal and District Boards. These rights are rights against all authorities. Second, it lays down that all laws in force in the country before the commencement of the Constitution are void to the extent to which they are inconsistent with these rights. As soon as the Constitution came into force on Jan. 26, 1950, are the Public Safety Acts which were in operation during the preceding region were declared null and void by the various High Courts in the country. Third, the State is prohibited from making any law which might have the effect of abridging or contravening them, save as provided for in the Constitution. The Supreme Court held sec. 14 of first Prevention Detention Act invalid for this reason. As has been pointed out in the preceding chapter, the one great anxiety of the framers of the Constitution was to give to the citizens the greatest amount of freedom compatible with the security and unity of the State.

The Constitution groups the fundamental rights of Indian citizens under the following seven heads : Right to Equality ; Right to Freedom ; Right against Exploitation ; Right to Freedom of Religion , Cultural and Educational Rights ; Right to Property ; and Right to Constitutional Remedies. A few words of explanation and comment under each head are subjoined.

1. *Right to Equality*—Equality is one of the basie and fundamental postulates of democracy, and is therefore rightly made the bed-rock of Indian polity by the Constitution. It seeks to secure

to the citizens equality in all its forms: legal, civic and social. Article 14 guarantees to every Indian citizen equality before law; Articles 15 and 17 establish social equality, and Article 16 postulates equality of opportunity for all citizens in matters relating to employment under the State. Equality before law means that the laws of the land give security to all persons so far as their life, property, liberty, and pursuit of happiness are concerned. Every citizen can have recourse to a law court for the prevention or redress of wrongs done to him. In other words, arbitrary conduct on the part of the executive is excluded. Civic equality means that no citizen shall be subject to any disability, restriction or condition with regard to access to shops, public restaurants, hotels and places of public entertainment; or about the use of wells, tanks, roads, places of public resort, etc., maintained by the State on grounds of religion, race, caste, sex, or place of birth. It also implies equality of opportunity for all citizens. Equality of opportunity signifies that no individual can be discriminated against only on grounds of religion, race, caste, descent, etc., in respect of employment under the State, and appointment or promotion to any office. Since the observance of untouchability in any form is inconsistent with civic equality, the Constitution specifically abolishes it. It makes the enforcement of any disability arising out of Untouchability an offence punishable in accordance with law. Social equality is further sought to be secured by the abolition of titles, local as well as foreign. The clause which abolishes untouchability is 'more precious than all the other rights of equality guaranteed under the Constitution. It puts an end to the most degrading of social inequalities that have vitiated Hindu society'. It lifts about fifty millions of our countrymen from their ago-old low and degrading social status, and thereby puts 'a legal stamp on the great social revolution brought about by Mahatma Gandhi'.

The right to equality as explained above is not absolute. It does not prevent the State from reserving certain posts for backward classes or from prescribing qualifications in regard to residence in the matter of appointment within certain states or local areas. Space can be reserved for women and children in public places like parks, and places of public entertainment like cinemas. Such reservation is not inconsistent with equality of opportunities. The first amendment of the Constitution made in 1951 renders this point clear.

The amendment was necessitated by a decision of the Madras High Court declaring a circular of the Madras Government reserving some seats in some technical institution for members of Gataim community null and void.

The significance of the provisions in regard to equality of status and of opportunity, civil equality and the abolition of untouchability would be better appreciated if understood against the background of the caste system of India. The caste system has been a powerful barrier in the development of the idea of an Indian Nation in which members of the various castes and communities are equal members. By proclaiming the equality of all citizens as regards the enjoyment of civic and political rights irrespective of caste differences, these provisions are calculated to foster and promote the sentiment of national unity.

1. *Right to Freedom*—Democracy demands not only equality, it also postulates liberty of the individual. Our Constitution, therefore, guarantees to every citizen the usual liberties. It secures freedom of speech and expression which can be interpreted to include freedom of the press, freedom to assemble peacefully and without arms, freedom to form associations or unions, freedom to move freely throughout the territory of India and reside and settle in any part of it, freedom to hold property and dispose it of, and the freedom to practise any profession or to carry on any trade, business or occupation. These various freedoms constitute the core of individual liberty ; their inclusion in the Constitution saves the individual from oppressive public authority. The Constitution also provides that no person can be convicted of any offence except for the violation of the law in force at the time of offence. In other words, no criminal law can be made to have retrospective effect. Further, protection is sought to be given to the individual by providing that no individual can be deprived of his life or liberty except in accordance with procedure established by law. In the Constituent Assembly a good deal of debate took place over the question whether the phrase 'due process of law' is to be used or the phrase 'due procedure established by law'. The first form of expression, namely, due process of law, allows the judiciary the power to determine the soundness of the law in accordance with which a person is being deprived of his freedom, whereas the later version deprives it of such a power and leaves the legislature rather than the judiciary the master

in matters affecting personal liberty. The C. A. preferred the latter phrase because it did not want that the judiciary should thwart the legislature.

But, as has been shown above, no right can be absolute. The right to personal freedom guaranteed by the Constitution is subject to certain limitations. For example, the right to freedom of speech and expression is limited by the law of libel, slander, defamation, etc. The right to assembly and association is subject to restraints imposed by the State in the interests of public order. In any emergency the right of personal freedom and the right to constitutional remedies can be suspended by the President. Such limitations arise out of the very nature of society; they are involved in the relation of an individual to his fellow-citizens, to the state of which he is a member and to the human world at large. The restrictions imposed by the law of libel, slander, etc., are necessitated by our relationship to other individuals; no person can be allowed to do with impunity what interferes with the basic and all-inclusive right of every person to have the fullest freedom to develop his personality fully. The freedom of every individual must therefore be limited by the equal freedom of every other individual. Since moral considerations and public order and peace are the pre-requisites of the fullest and freest development of the moral personality of every individual, it is obvious that no society can allow any member to indulge in what is contrary to moral demands or the preservation of public peace and order. The restrictions upon freedom of speech, association, assembly, etc., imposed by the State in the interest of public order are thus universal; They exist in one form or another in England and U. S. A. and elsewhere. They cannot be reasonably objected to.

There is, however, one provision of the Constitution which has been seriously resented and bitterly criticised on the ground that it nullifies the right to personal freedom guaranteed by Articles 19 and 21, and the first two clauses of Article 22. Article 19 enumerates the various personal liberties listed above. Article 21 lays down that no person shall be deprived of his life or personal freedom except in accordance with procedure established by law. Article 22 provides that no person can be detained in custody without being informed, as soon as possible, of the grounds on which he is arrested, that is a person who is arrested cannot be detained for more than twenty-four hours without authorisation by a Magistrate, and that

he must be given the right to consult and be defended by a person of his own choice. These are liberal provisions meant to safeguard the freedom of the individual against arbitrary and illegal arrest and detention. But they do not apply to persons who are arrested and detained under law providing for detention. The Constitution empowers Parliament to make laws providing for detention without trial of persons who are expected to act in a way prejudicial to public safety.

It is alleged that the power of making laws authorising the executive to arrest and detain persons without trial by a court nullifies all the provisions of the Constitution in regard to individual freedom ; it puts in the hands of the executive a terrible engine of oppression. The framers of the Constitution have, however, imposed severe restrictions upon the exercise of this right, of detaining persons without trial. The Government cannot detain a person in this way for more than three months without reference to an Advisory Board consisting of persons who have been or are qualified to be appointed as High Court Judges. The Government is also bound to communicate to every such person the grounds of his detention and to give him the earliest opportunity of making a representation against the order. It must also be remembered that no government can resort to preventive detention unless Parliament passes a law to that effect. Nevertheless, the critics hold that the presence of such a provision in the Constitution is a serious blot on it ; it is inconsistent with the liberty of the individual, and the rule of law.

This is indeed undeniable ; the Constitution does give to the executive a power which is incompatible with the rule of law and a menace to individual liberty, if abused. The provision for preventive detention can however be justified. It is a measure of self-preservation and self-defence. The framers of the Constitution were keenly aware of the dangers to which the new Republic stood exposed ; they therefore thought it proper to arm it with the necessary power of acting in self-defence. Not to have done so would have meant playing into the hands of the enemies of the infant Republic. Unfortunately, there were individuals in our country, and they still exist, who would not hestitate to use violent methods for the overthrow of the new regime, create anarchy and use it for setting up in its place a new order of their liking. It is the first and foremost duty of a State to guard itself against the danger to its security and existence coming

from such quarters. Detention without trial of persons who are likely to act in ways prejudicial to the safety of the State is thus a measure of self-defence to be used in an emergency. It is not meant to be used against lawabiding individuals or against the political opponents of the party in power, and is not likely to be so used. There are sufficient restrictions upon its use. It must be remembered that, if on the one side, the framers of the Constitution were anxious to secure to the individual the greatest measure of personal freedom, equality of status and opportunity, and social and political justice, on the other side, they did not ignore the security and unity of the state. Though a great qualification of the right to personal freedom, preventive detention is justified on the ground of the security of the State. In one form or other it exists in almost every country in the world. Even in Great Britain there is a law empowering the executive to issue an order asking an individual to show cause why he should not be bound down for good behaviour. This provides for preventive detention after a summary trial.*

The clause of Article 19 relating to the freedom of speech and expression was amended by Parliament in June 1951. The amendment empowers Parliament to impose reasonable restrictions on the freedom of speech and expression if it finds it necessary to do so in the interests of the maintenance of friendly relations with foreign states, prevention of public disorder and incitement to violence. The amendment was considered necessary because of some decisions of law courts which revealed that the language of Article 19 was not wide enough to cover incitement to violence. The amendment was vigorously opposed by the press and certain sections of public opinion in the country, and was accepted only as a temporary measure for a couple of years. Loose and provocative writings in a section of the press provided an opportunity to the Government to propose and press for the amendment ; the necessity for it would not have arisen if all of us realised our duty to the State and did not try to convert the freedom of speech and expression into license to preach violence and create disorder.

3. *Right against Exploitation.*— Prior to the passing of the Constitution there existed in our country some sort of traffic in human being and forced labour or *begar*. Article 23 prohibits such exploitation of human beings. It also forbids the employment of

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* Sri Ram Sharma : *How India is found*, page 160.

children under fourteen years in factories, mines or any hazardous work. The provision against exploitation of human beings does not mean that the State cannot enforce any citizen to perform certain duties ; *e. g.*, serving in the army or on a jury.

4. *Right to Freedom of Religion.*— Although the Right to Equality is specifically taken to mean that no citizen shall be discriminated against for any public purpose on grounds only of religion, caste, etc., the Constitution contains a separate provision guaranteeing freedom of conscience and free profession, practice and propagation of religion to every citizen, subject to the requirements of public order, morality and health. This right of religious freedom means that a citizen may profess any religion he likes without any detriment to his public interests, and also propagate it. He can adopt any mode of worship he prefers, provided that it is not opposed to public order, morality, and health. It also includes the right of every religious community to establish and maintain institutions for religious and charitable purposes, manage its own religious affairs and own, acquire and administer property for religious purposes. No individual can be forced to pay any tax for the promotion of and religious purpose. These provisions were necessary to assure the minorities, particularly the Muslims and the Christians, that in free India they would be left undisturbed in the profession and practice of their religious faiths. The sucular Indian Republic found it desirable to guarantee free profession of religion to all citizens. The Sikhs are allowed to carry Kirpans as a part of their religious practice.

The neutrality of the State in matters of religion does not debar it from making law providing for social reform or for the better management of religious endowments or the throwing open of Hindu religious institutions of a public character to all sections of Hindus.

5. *Cultural and Educational Rights.*— Our Constitution goes one step further than granting religius freedom to individuals ; it also grants cultural freedom to every religious or racial group. It does so because, while recognising and seeking to strengthen the unity of the Indian people, it also recognises their diversity and the need to give full scope to every section of the people to grow according to its own genius. It therefore gives to every religious or racial group full freedom to practise and preserve its own distinctive religion, culture, language and script. The State is forbidden to

pass any law imposing any particular culture or language upon any group or community. Every cultural minority has the right to establish and maintain its own educational institutions for the propagation and preservation of its culture and language, and the State is not allowed to discriminate against any such institution in the matter of giving grants-in-aid. The State schools shall be open to the children of all communities. The Constitution thus aims at a rich harmony and not a dead uniformity.

6. *Right to Property.*— Our Constitution recognises the right to private property, moveable and immoveable. It declares that no person can be deprived of his property save by the authortry of law. In other words, the right is not absolute ; under certain circumstances the State can acquire the property of a person against his will. The right of the State to acquire private property for public use is known as the right of eminent domain. Its exercise is made subject to the fulfilment of certain conditions. The Constitution lays down that the State can deprive an individual of his property only in accordance with law and subject to the payment of compnesation to be determined by itself. Property can be acquired only for public purposes like the construction of a railway line, building of a school or hospital, navy-yard, or roads. The Constitution thus prohibits *expropriation* of private property. It should also be remembered that the law passed by a State legislature for the acquisition of private property cannot take effect unless it has received the assent of the President of the Union. 'The assent of the President is made essential to secure that the provision for compensation and its payment is fair and just.'* This provision is necessary in view of the fact that the person whose property is being acquired by the State is not permitted to refer the matter of compensation to any court on the ground of its being inadequate ; the amount of compensation is not a justiciable issue.

The socialists strongly object to the provision for payment of compensation. They hold that to insist on payment of compensation for the property acquired by the State for a public purpose is to show great and undue regard for the rights of the landlord and the property-owner and to place almost insuperable difficulties in the way of economic reform and the removal of economic inequalities. The difficulties being experienced in U. P. in collecting enough

* Joshi : *The Constitution of India*, page 91.

money to be paid to the Zamindars lend force to their contention. But to acquire the property of a person without paying compensation for it amounts to forcible expropriation of property which may accord with the creed of the socialists and the communists but is incompatibe with the principle of Truth and Non-violence on which the Father of the Nation laid great stress. It would have made lakhs of petty zamindars the enemy of the new Republic and rendered the task of consolidating the unity of the country far more difficult. It should be borne in mind that the end does not justify the means. It may be added that the amendment of 1954 smoothres the way for the advent of socialism in the country.

The decision of the Patna High Court declaring the Bihar Zamindars Abolition Act unconstitutional and certain other adverse judgments of law courts led to the further amendment of Constitution in 1954. The amendement seeks to enlarge the scope of exception from judicial union of laws providing for Government taking temporary possession of mills etc., for better management and acquistion of property for certain other purposes.

7. *Right to Constitutional Remedies.*— Our Constitution not only guarantees to every individual the right to equality, the right to freedom, the right to freedom ot conscience, etc., but also confers on him the right to move the Supreme Court for their enforcement. Since rights lose all their significance and value unless they can be enforced and safeguarded by consitutional methods, Article 32 of the Constitution which provides remedies for their enforcement may rightly be described as 'the heart and soul of the whole Constitution.' Many modern constitutions confer fundamental rights on the citizens ; but not all of them provide means for their enforcement, e. g. that of U. S. S. R. the absence of Constitutional remedies in U. S. S. R. roles the fundamental rights of all value and significance. Following the example of the United States of America our Constitution makes the fundamental rights justiciable ; any person who thinks that any one of the fundamental rights conferred by the Constitution is being curtailed or denied by any government or authority, can move the Supreme Court for its enforcement.

In this way the fundamental rights are made binding on the executive and legislature. The Supreme Court has been given power to issue directions, orders or writs, including the writs of *habeas corpus*, *mandamus*, *quio warranto*, *certiorari*, and *prohibition*, whichever

may be appropriate for the enforcement of the rights. Every High Court also has the power to issue writs and directions for the same purpose. Parliament may empower any other court also to exercise within its jurisdiction the powers exercisable by the Supreme Court in this connection.

The writ of *habeas corpus* is issued at the request of a person who thinks that he has been illegally and wrongly detained by the government, and directs the authority by whose order the former is detained to produce him before the Court so that it may make an enquiry into the grounds of the detention. If the court finds no legal justification for the detention, the aggrieved person is ordered to be released. The writ of *habeas corpus* is thus of the highest constitutional importance ; it is a remedy available to the weakest against the strongest.

The writ of *mandamus* is an order issued by a court commanding a person or authority to do its legal duty. It is within the discretion of the court to issue or not to issue this writ. The duty for whose performance its issue is demanded must be mandatory and not merely discretionary ; *e. g.*, a tribunal can be ordered to hear and decide an appeal, or a municipal board can be made to hold an election which is due. The writ of *prohibition* works in the opposite way ; it is issued to an inferior body preventing it from doing something which is beyond its jurisdiction. It is usually issued to inferior courts, but may be issued to Ministers and public bodies also.

By a writ of *certiorari* a superior court may direct an inferior court to transmit to it the entire record of proceedings before it in any matter so that the matter may be dealt with by the superior court. *Quio warranto* is an order restraining a person from acting in a public office to which he is not entitled. It is something like an injunction.

It should be noted that apart from the right to move the Supreme Court for the enforcement of the fundamental rights a citizen has the right to object to any law passed by a legislature or to anything done by the executive on the ground that it is *ultra vires* of the Constitution.

Suspension of Fundamental Rights in an Emergency.— Under normal conditions the fundamental rights as defined in Part III of the Constitution cannot be abridged or abrogated by any Act of Parliament or a State Legislature ; the Union and State executive

are also bound to respect them. In case they are contravened, the aggrieved party can move the Supreme Court or a High Court to enforce them. But if a state of emergency has been proclaimed by the President, the State can make laws and issue orders which have the effect of contravening them, and the President can issue an order suspending their enforcement by the Supreme Court or any other court. In short, in periods of crisis like an international war or civil strife the fundamental rights and their enforcement remain suspended. They are restored automatically when the proclamation of emergency comes to an end. This provision is in harmoncy with the principle that in a national emergency the security of the State takes precedence over the liberty of the individual ; the rights of the individual have to be subordinated to the supreme need of preserving the safety and security of the State. Such provisions are found in most constitutions. The Rule of Law was suspended in Great Britain during the World Wars. But there is a difference between the British anp Indian practices. In Great Britain a proclamation of emergency must be laid before Parliament within five days of issue and cannot last for more than seven days unless Parliament provides for its continuance.* In our country the proclamation has to be laid before Parliament but authorisation by it is not required for its continuance. Critics of the provision like Shri H. V. Kamath said that its acceptance would pave the way for the emergence of totalitarianism and make the President something like a dictator. When the Constituent Assembly adopted this provision, he said : 'This is a day of shame and sorrow ; may God help the Indian people.'

It is not necessary to take such a pessimistic view and maintain that the presence of the provision for suspending the fundamental rights and the right to constitutional remedies would make our President a Dictator and the State totalitarian. It must be remembered that the written constitution of India has to be 'read, interpreted and understood not in terms of its own express text, but in terms of the unwritten conventions as expounded in English constitutional law'.* If those conventions are observed as they are bound to be, there is no fear of the State becoming totalitarian as apprehended by Shri H. V. Kamath. The provision is meant for abnormal times ; it is not designed to destroy democracy, but to save it from destruction. Similar provisions exist in other countries also.

* Chanakya : *The Indian Revolution*, page 132.

Directive Principles of State Policy—If one looks at the scheme of fundamental rights guaranteed by the Constitution in Part III, one would be struck by the omission of the right of every individual to elementary education, the right to work and leisure, the right to sustenance in old age and during sickness, *etc.*, which find place in the constitution of Soviet Russia. The reason for their omission is not far to seek. It was shown above that a fundamental right loses all significance and value if there is no constitutional means for enforcing it. The framers of our Constitution knew that the rights to elementary education, work, leisure, etc., could be enjoyed by the citizens only under a socialist or communist state where the whole of the economic life of the community is under the control of the State and can be effectively planned. There was no possibility of introducing full-fledged socialism in our country along with the Constitution, and therefore there was no point in incorporating them in Part III of the Constitution dealing with fundamental rights. The deficiency has been made good to a large extent in Part IV which lays down the Directive Principles of State Policy. These principles are meant to be 'fundamental in the governance of the country' and it shall be the duty of the State to apply them in making laws. (Vide Article 37). It can be said that the Constitution describes the rights of the citizens in two parts. The rights described in the first part under the heading Fundamental Rights are enforceable through law courts, and those enumerated in the second part under the title Directive Principles of State Policy are not enforceable by any court. In other words, whereas the Fundamental Rights are justiciable, the Directive Principles are not so. The latter confer no legal rights and are not accompanied by any legal remedies. 'They represent no more than general directions or instructions or recommendations to the legislatures and the executive authorities. They are mostly in the nature of moral precepts and economic maxims, unexceptionable in content, having no legal force'.*

The role which the Directive Principles of State Policy are expected to play in the governance of the country can be best understood by comparing them to the Instrument of Instructions issued by the King to the British Governors General and Governors in India on their appointment. They contained directions as to the way in which these great officials were to exercise the powers vested in them.

* Joshi : *op. ct.*, page 103—4.

But no legal action could be taken if any Governor or Governor General failed to comply with terms of his Instrument of Instructions. Similarly, the Directive Principles are a sort of a permanent reminder to the State that it must strive to formulate and implement its policies in such a manner as to realise the high ideals stated therein. If the legislature and the executive ignore them, they will have to answer before the electorate, but not before a court of law. They can thus be used for political criticism; they possess great educative value. Their true significance will be seen at a more appropriate time when the country would have overcome the difficulties of the present abnormal times, provided those in power are endowed with a moral vision.

As has been pointed out more than once in the preceding chapter the Constitution declares India to be a *democratic* republic. It makes the people of the land the ultimate sovereign authority from whom flows all the power and authority which the government exercises. The people have been given the right to elect their representatives and also the right to hold office and to be chosen for it. But mere political democracy is not of much value unless it is accompanied by *social* and *economic* democracy. Article 38 declares that the State shall strive to promote the welfare of the people by securing and protecting a social order in which all the institutions of national life shall be informed by social, economic and political justice. Article 39 requires the State to direct its policies towards securing (i) adequate means of livelihood for every man and woman, (ii) distribution of national wealth so as to subserve the greatest common good, (iii) payment of equal wages for equal work, and (iv) protection of child and adult labour against exploitation. Article 41 requires the State to make effective provision for securing the right to work, the right to education and to public assistance in cases of unemployment, old age, sickness and disablement. Articles 42 and 43 direct the State to make provision for securing just and humane conditions of work, maternity relief and living wage for workers. All these provisions are of a socialistic character, and would help in the realisation of the main objectives of the Preamble. Our State is expected to develop as a welfare state on socialistic lines.

Some other directive principles are of a different nature; they are meant to promote and realise the Gandhian principles. Article 40 directs the State to organise village punchayats and endow them

with such powers and authority as may be necessary to enable them to function as units of self-government. Other Articles require it to promote cottage industries, raise the level of nutrition and standard of living of the people, and bring about prohibition and promote the education and economic interests of scheduled castes and scheduled tribes, etc.

In the third group we may place provisions for free and compulsory education for all children below 14 years of age within ten years, separation of the executive from the judiciary, protection of monuments and places and objects of national importance, organisation of agriculture and animal husbandry on modern and scientific lines, prohibition of slaughter of milch cattle and cows and calves, and the promotion of international peace and morality.

The Directive Principles place a lofty and ambitious programme before the nation and State. The measure to which they are successfully applied would be the measure of our achievement of the objectives set forth in the Preamble.

CHAPTER XV

Government of the Union

Introductory—As has been pointed out in an earlier chapter the Constitution declares India, that is Bharat, to be a Union of States and makes it a federal polity. It is not necessary for our present purpose to trace the emergence of the federal idea in India. We would state only this much that the Constituent Assembly took it over from the Government of India Act of 1935. The Indian National Congress had accepted it as best suited to the needs of the country and as necessary for the satisfaction of the Muslim demand for autonomy for the Muslim majority provinces. The British statesmen had favoured the idea at an earlier date mainly with a view to bringing the Indian States into the political system of the country and thereby introducing a conservative and stabilising factor on which they could rely. The adoption of federalism was thus an incident in the evolution of the British policy in India and not due to any inner urge of the people for unity which they already had in

an ample measure.

Like all other federal constitutions in the world, our Constitution is written and provides for a statutory distribution of powers between the Government of the Union and the Governments of the States. The different governments are supreme, each in its allotted sphere; but as compared to other federal polities, our central government is very strong and the units comparatively weak. The scheme of distribution of powers has been explained already.* The Constitution also provides for a Supreme Court to settle disputes between the Centre and the Units, etc., and to act as the interpreter and defender of the Constitution. It differs from other federal constitutions in several vital features to which reference has been made already. It has strong unitary features and can be converted into a unitary system in an emergency. It provides for a strong centre and seeks to preserve and emphasise the *unity* of the nation in several ways; *e. g.*, by providing for a single and common citizenship for the whole country one All-India Administrative Service for the higher posts, one integrated judiciary and one fundamental civil and criminal law for the whole country. The Union has been given ample control over the States to secure the execution of its policies within their territories.

In this chapter and the next we shall deal with the composition, powers and functions of the Government of the Union, and reserve an account of the Governments of the States for the one to follow.

Nature of the Union Government—Those who framed our Constitution were the products of the Western system of education. A great majority of them were imbued with English political ideas and have had experience of the working of the parliamentary or cabinet system of government under the Government of India Act of 1935 and its predecessor, the Act of 1919. Very naturally, therefore, they modelled the system of Government on British lines and provided for the cabinet system both for the Union and the States. Some of the conventions of the cabinet system as they operate in Great Britain have been embodied in our Constitution, while others have been left to develop by usage. In interpreting the powers, etc., of the President of the Union those conventions must be kept in view. Failure to bear them in mind will lead to a serious misunderstanding of the nature and spirit of the Constitution.

* See above, pages 536—539.

A few words about the nature of the paliamentary form of government and its difference from the presidential type would not be out of place here. The cabinet system presupposes two executives in the state, one titular and the other political. The titular executive or nominal head of the State may be either a hereditary monarch as in Great Britain or a President elected by the people for a fixed period as in France ; in either case he has only nominal powers and does not constitute the real effective governing authority. In the presidential type there is only one executive, and he is the real governing authority. There is no titular head of the State. The difference between the nominal chief executive in a parliamentary state and the real chief executive in a presidential state can best be explained in the classical statement of Maine, that while the King of Great Britain reigns but does not govern, the President of America governs but does not reign. The second main characteristic of the parliamentary form of government is to be found in the close and intimate connection and collaboration between the executive and legislative organs of the government. The real or political executive, *i. e.*, the cabinet, holds office so long as it retains the confidence of the legislature. The cabinet ministers have seats in the legislature from where they explain and defend their policies, pilot legislative measures sponsored by them and answer questions put to them by the members of the legislature. The presidential type, on the other hand, is based on the theory of Separation of Powers ; the executive is independent of the legislature in the sense that he has no seat in the legislature and is not responsible to or removable by it. He is appointed for a fixed term. The legislature is also independent of the executive in the sense that it convenes by itself and cannot be dissolved by the executive and is not subject to its control.

By vesting the executive power of the Union in the President and by providing for a Council of Ministers with the Prime Minister at its head to aid and advise him in the exercise of his functions and making it collectively responsible to the House of the People the Constitution definitely and explicitly gives to India the parliamentary or cabinet type of government.

Organs of the Union Government—Like other civilized governments our government also has its three chief organs : the executive, the legislature and the judiciary. The executive organ consists of the President and the Council of Ministers. The Legislative organ

consists of the President and the two Houses of Parliament. The Supreme Court constitutes the judicial organ. In what follows we shall briefly describe the composition and powers of the executive organ.

The Union Executive

Introductory—The Constitution vests the executive authority of the Union in the President and provides for a Council of Ministers to aid and advise him in the exercise of his powers. It can therefore be said that the Union Executive is composed of two parts: (*i*) the President, and (*ii*) the Council of Ministers. The first is the nominal executive and the second is the real or political executive. There is also the permanent executive known as the Civil or Administrative Service. We shall first describe the powers and functions of the President, the manner of his election, etc., and next deal with the Council of Ministers. The Civil Service will be referred to elsewhere.

The President—Since India is a *republic*, the Head of the State is designated as President; he could not be called a King. Accordingly, the executive authority of the Union, which extends to all matters with respect to which Parliament has the power to make laws and which are enumerated in the Union List, is vested in the President. He may exercise it directly or through subordinate officials. Though he is designated as the President. he bears no resemblance to the President of the United States of America; his position in the Union is more like that of the King under the British Constitution. He can be described as a constitutional monarch for five years. In the language used by Dr. Ambedkar he is 'head of the State but not of the executive. He represents the Nation but does not rule the Nation. He is the symbol of the Nation. His place in the administration is that of a ceremonial device or the seal by which the Nation's decisions are made known'. He neither governs nor reigns.

Election of the President—Following the American and the French practice the Constitution lays down an indirect method for the election of the Union President. He is to be elected by an electoral college consisting of (*i*) the *elected* members of both Houses of Parliament, and (*ii*) the *elected* members of the Legislative Assemblies of the States of the Union. The system of indirect election has

been given preference because in a big country like ours with a huge electorate, direct election would have been impracticable. Moreover, direct election and an office devoid of real and effective power do not cohere together. A directly elected Head of the State, conscious of the backing of the masses, may like to usurp greater power than the Constitution allows and thereby endanger it.

Two points deserve notice about the method of electing the President. (*i*) Since the members of the electoral college are not chosen for the specific purpose of electing the President as the presidential electors are elected in the U. S. A., but are already members of the Union and State legislatures, there is no danger of the election becoming virtually direct as has happened in the U S.A. (*ii*) Parity of voting strength has been maintained as Union elected members of Parliament was as front number 727 and elected members of Legislative Assembly of the State were about 3283. This is because the President is at once a Federal official and the representative of the Indian Nation. Since the various States of the Union are unequal in population and in the strength of their Legislative Assemblies, and the total strength of the elected members of the Legislative Assemblies of the States is far greater than that of the elected members of both the Houses of Parliament, a complicated formula has been adopted to make the voting strength of the two constituent parts of the electoral college equal and to secure uniformity in the scale of representation of the different States. This has been made possible by abandoning the method of counting votes on the basis of the principle 'one man, one vote' in favour of the method of *weighing* them. The complex formula for determining their weight is described in Article 55 of the Constitution which runs as follows :—

(*a*) "Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly.

(*b*) "If, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (*a*) shall be further increased by one.

(*c*) "Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative

Assemblies of the States......by the total number of the elected members of both the Houses of Parliament, fractions exceeding one half being counted as one and other fractions being disregarded".

The above formula may be represented thus : The number of votes which each elected member of a State Legislative Assembly will have $= \frac{\text{Population of the State}}{\text{Total number of elected members of Assembly}} \div 1000.$

If the total population of a State is 20,849,840, and the number of elected members of its Legislative Assembly is 208, then each member will have 100 votes. Dividing the total population by 208 we get 100239 as the quotient. Dividing the quotient by 1000, we get 100. The residue of 239, being less than 500, is disregarded.

If the total number of votes assigned to all the elected members of the Legislative Assemblies of the States is, say, 90,140, and the total number of elected members of both Houses of Parliament is 750, then each of the latter would have 90,140/750, *i. e.*, 1200 votes. The residual fraction 140/750 is disregarded as it is less than one-half

As has been pointed out above, this unique and complicated method of weighing votes has been resorted to (*i*) for ensuring that the Union Parliament and the State Legislative Assemblies shall have equal weight in the choice of the President, and (*ii*) that all the States shall be represented on a uniform basis.

The electoral college will elect the President by secret ballot and on the basis of proportional representation by single transferable vote. Ordinarily this method is applicable to multi-membered constituencies. It is not used when only one candidate is to be elected. Our Constitution has employed it for the election of the President for ensuring that the elected candidate shall have an absolute majority of the votes cast. It was not deemed proper to have a President with a mere plurality of votes which would be less than the combined votes of the other candidates. Members of Parliament can cast their votes either at Delhi or at the capitals of their States and the members of State Legislative Assemblies at the capitals of their States. The Chief Election Commissioner will count all the votes and declare the result. The programme of election is fixed by the Chief Election Commissioner.

The President is elected for a five-year term. He may resign earlier, but cannot be removed from office except by impeachment. He is eligible for re-election as often as he likes. He is given a

salary of Rs. 10,000 p. m., and an official residence. The salary cannot be reduced during his term of office. Dr. Rajendra Prasad has voluntarily surrendered a part of his salary to the State.

If a President dies while in office or resigns, or is removed by impeachment, his successor will be chosen in the way described above within six months for a full five-year term. The Vice-President will not succeed him automatically; he will work as President only till a permanent incumbent is elected. This practice differs from the American where the Vice-President succeeds the President for the residue of the term.

Any person who (*i*) is a citizen of India, (*ii*) is over 35 years of age, and (*iii*) is eligible for election as a member of the House of the People can stand for the office of the President. The qualifications have been purposely kept low to throw it open to all citizens irrespective of considerations of religion, race, birth, colour, wealth or sex. This does not mean that no qualities of head and heart are needed for the office or demanded on the part of the aspirant. The President must be a man of great and undoubted ability and merit, and should possess sound common sense and tact and integrity of character and purpose. No one who has not made a name for himself in the political life of the country can aspire for election to this august office. But in France first-rate men are seldom chosen as President; a majority of French Presidents have been men of mediocre talents. Our first President, however, is one of the topmost leaders of the nation and has a distinguished record of service and sacrifice in the cause of the country. It may be hoped that we shall not develop the French tradition.

No person can be elected as a President who holds an office of profit under the Government of India or the Government of a State or under any local authority under any Government. The offices of the President, Vice-President, Governor, Rajpramukh and Minister are not deemed to be offices of profit for this purpose. The President cannot be a member of any House of Parliament or of any State Legislature. But a legislator or a minister can stand for the office, if elected, he has to resign his seat in the legislature or his previous office. The President cannot hold any other office during his term. Before entering upon office as President every person is required to take an oath faithfully to execute the duties of the office and preserve and defend the Constitution. Disputes about

the election of the President, if any, are heard and decided by the Supreme Court.

The President of the Indian Republic holds an office of great dignity and prestige. He enjoys several privileges and immunities. Like the British King and the American President he is not amenable to the jurisdiction of any law court in the country. He cannot be arrested or imprisoned. He is not answerable to any authority for the way in which he exercises the powers and discharges the obligations of his office. But if he violates the Constitution, he can be impeached like the American President. The impeachment can be initiated in any House of Parliament. If the motion to that effect is passed by a two-thirds majority of the total strength of the House, the charge will be investigated or caused to be investigated by the other House. If it is accepted by the other House by a two-thirds majority, the President would be removed from office. The President has the right to be heard and to defend himself during the impeachment.

Powers of the President—The powers of the President can be discussed under four different heads : executive, legislative, financial, and emergency. He has been given temporary powers during the transitional period. They are not of much consequence and will be ignored.

1. *Executive Powers*—The Constitution vests in the President the supreme executive authority of the Union including the supreme command of the defence forces and the power to grant pardon, reprieve, and remit or reduce sentence. He can exercise these powers directly or through officials subordinate to him. Even though these powers are nominal—they are to be exercised on the advice of the Council of Ministers headed by the Prime Minister—a detailed account of them is necessary for a proper understanding of the role the real executive is expected to play in the political life of the nation.

As the chief executive of the Union the President has to do several things. In the first place, all executive action of the government is expressed to be taken in his name, even though the real responsibility for the decisions taken is that of the cabinet. He has also the duty of making rules for the more convenient transaction of the business of the Government. This does not include the allocation of portfolios to the ministers which is done by the Prime

Minister. The situation is thus similar to what prevails in Great Britain where the entire administration is carried on in the name of the King, though the responsibility for it is that of the Cabinet. In the second place, the President has the powers of appointment and removal. He appoints important officers like the Governors of the States, Chief Commissioners, judges of the Supreme Court and the High Courts, the Chairman and members of the Union Public Services Commission, the Attorney General of India, and the Comptroller and Auditor General of the Union. He also appoints the Prime Minister and the members of the Council of Ministers on the recommendation of the Prime Minister. All Ministers hold office during his pleasure. He can also remove the Chief Justice and other judges of the Supreme Court and the High Courts and the Chairman and members of the Union Public Services Commission, *etc.*, under certain circumstances and in accordance with prescribed rules. He also nominates 12 members to the Council of States, and may nominate two members of the Anglo-Indian community to the House of the People if he thinks that the community is not adequately represented there. He also appoints the Election Commission, the Finance Commission, and other Commissions, and receives their reports on various matters. He appoints a Special Officer for Scheduled Classes and Tribes who reports to him on the working of the safeguards for them in the constitution. He can establish an Inter-State Council to enquire into and give advice in regard to Inter-State disputes. He can authorise the use of Hindi along with English for some purposes during the first fifteen years and appoint a commission at intervals of five years to report on the progress made in the use of Hindi. As the Head of the State he receives ambassadors and diplomatic representatives from foreign states, and appoints ambassadors, etc., to them and gives them credentials. He negotiates treaties and can declare war and conclude peace. Such powers are usually vested in the Chief Executive in every state and are more nominal than real. The President has also the power of direction, control and coordination in relation to State Governments, and can issue directions to the Governors to ensure compliance with the laws made by the Union Parliament, and in regard to important matters like the construction and maintenance of means of communication of national importance.

As has been stated already, the President has the supreme

command of the defence forces of the country, and the power to grant pardons, reprieves, respites or remissions of Punishment, or suspend or commute the sentence of any person committed of an offence. This power is sometimes, but wrongly, described as judicial. It is executive in nature, no judge or magistrate can grant pardon, etc. The President is also responsible for the administration of centrally administered areas like Delhi, Coorg, Ajmer-Mewara, and the Andaman and Nicobar Islands. It should, however, be remembered that with the establishment of legislative assemblies in several of the Part C States the volume of centrally administered areas would greatly shrink. It is bound to shrink further when effect is given to the recommendations of the S. R. C.

Finally, it may be mentioned that he has the highly important right to be kept informed of all the decisions of his Council of Ministers relating to the administration of the affairs of the Union. The Constitution charges the Prime Minister with this duty, and also with the duty of furnishing such information as the President may call for in regard to the administration of the affairs of the Union and the proposals for legislation. He can require the Council of Ministers to consider any matter on which a Minister has taken a decision but which was not considered by the Cabinet. In short, like the British King he has the right to be consulted, the right to encourage and the right to warn.

The President has been given some powers of an executive character in connection with the Union Legislature. He is empowered to summon the Houses or either House of Parliament to meet at such time and place as he thinks fit, to prorogue the Houses and to dissolve the House of the People. He has the right to address either House or a joint sitting of both the Houses of Parliament, and to send messages to either or both of them in regard to pending bills. It is one of his duties to address both the Houses of Parliament at the commencement of each session. Most of these powers are of a routine character and are vested in the Head of every State having the parliamentary system of Government. It may be pointed out here that the power to send messages to Parliament on pending bills is associated with the Presidentail system and not with the Parliamentary. The British King has no such power. The same remarks apply to power of veto discribed in the next.

2. *Legislative Powers.*— The Constitution makes the President

an integral part of the legislative organ of the Government of the Union, though he cannot be a member of either House of Parliament. As such, all bills passed by Parliament are presented to him for assent which he may give or withhold. He can return a bill, provided it is not a money bill, to Parliament with a message that it may be reconsidered or amended as suggested by him. The Houses of Parliament are bound to reconsider the bill accordingly. But if it is passed by them again with or without amendments, the President cannot withhold assent from it. In other words, his messaged veto over the Union Parliament in regard to bills is not absolute ; it can be overridden by Parliament by ordinary majorities. All he can do is to compel reconsideration of a bill by Parliament. He can send messages to both Houses of Parliament on pending bills. As has been stated in the preceding peragraph, these powers donot cohere well with the Parliamentary system ; they are conferred upon the Head of the state in the presidential system of government. There are certain types of bills which cannot be introduced in Parliament without his recommendation or sanction ; *e. g.*, bills proposing taxation or expenditure, bills proposing alteration in the name, boundary or area of a State or redistributing States or creating new ones. He has some powers in connection witn State Legislatures also. His sanction is necessary for the introduction of certain types of bills in them ; *e. g.*, a bill imposing restrictions on freedom of trade, commerce or intercourse with or within a State. Certain types of bills passed by State Legislatures require his assent before they can be put on the statute book ; *e. g.*, bills dealing with concurrent subjects and conflicting with a law made by the Union Parliament, bills providing for the compulsory acquisition of property or imposing certain specified taxes, and bills affecting the powers of the State High Court.

The President is empowered to issue ordinances during the recess of the Union Parliament, if he is satisfied that circumstances make it necessary for him to take immediate action. But every such ordinance must be placed before both the Houses of Parliament and shall cease to have effect at the expiry of six weeks from the re-assembly of Parliament, unless it has been withdrawn earlier. This power resembles the power of issuing ordinances during the recess of the Legislature vested in the Governor-General by the Government of India Act of 1935. But such an ordinance can be passed only in

regard to a matter about which Parliament has the power to make law. It should be borne in mind that the Constitution does not confer upon the President the power to issue an ordinance while Parliament is in session to maintain the peace or tranquillity of the land such as was enjoyed by the Governor General under the Act of 1935.

3. *Financial Powers.*— The Constitution confers on the President some vital powers in the financial sphere also. Firstly, in conformity with the British practice the duty of getting the annual financial statement prepared and laid before both the Houses of Parliament is laid upon him. Secondly, no money bills, including bills containing proposals for raising revenue by taxation, etc., and demands for grants. can be moved or introduced in Parliament without his recommendation. In the third place, he has control over tne Contingency Fund of India ; he can advance funds out of it for meeting unforeseen expenditure. Such advances must; however, be authorised by Parliament subsequently. In the fourth place, he has been vested with the power to distribute between the Union Government and the Governments of the States proceeds from Income-tax, and to assign to Assam, Bihar, Bengal and Orissa grants-in-aid in lieu of their share in the proceeds from the export duty on jute. Fifthly, he appoints from time to time the Finance Commission to make recommendations on the financial relations between the Union and the States. Lastly, he determines the contributions of the States towards the privy purses of the Princes whose territories have been merged into those States.

4. *Emergency Powers.*— For more significant and vital than the executive and legislative powers vested in the President are the emergency powers which the Constitution confers on him. They give him the power to change the form and shape of the Constitution itself.

If the President is satisfied that a grave emergency exists whereby the security of India or any part of it is threatened either by war or external aggression or internal disturbance, he may issue a proclamation declaring an emergency. Such a declaration can be made in anticipation of war or aggression or civil disturbance. So long as the emergency lasts, the Government of the Union can claim, if it so wants, *(i)* the power to legislate upon any subject even though it is included in the State List, *(ii)* the power to give directions

to the States as to how they should exercise their executive authority in matters which are in their charge, (*iii*) the power to vest authority in any officer for any purpose, and (*iv*) the power to suspend the financial provisions of the Constitution. Even some of the fundamental rights granted by the Constitution will remain suspended during an emergency ; *e.g.*, freedom of speech and assembly and freedom of association. In short, by declaring an emergency the President can transform the federal constitution into unitary. Such a power of converting a federal into a unitary state is not to be found in any other federal constitution. The President is the sole judge to decide whether an emergency exists or not. His decision that the security of the country is threatened by war, external aggression or internal disturbance cannot be challenged in a court of law.

The President is, however, not an absolutely free agent to act in any arbitrary manner he likes in the matter ; he is subject to the authority of Parliament. Every such Proclamation must be laid before both the Houses of Parliament, and cannot remain in force for more than two months unless otherwise directed by Parliament. Even then, it cannot remain in operation for more than six months at a time. In no case can the period of its duration extend beyond three years. During the period of emergency the President may suspend the right of the individual to seek constitutional remedies for the enforcement of their fundamental rights.

The President can declare an emergency in two other cases. If he is satisfied that the government of a State cannot be carried on in accordance with the provisions of the Constitution, he can issue a Proclamation to that effect. He can then assume to himself all the powers of the Governor or the Rajpramukh, and empower Parliament to exercise all the powers of the State Legislature. He cannot, however, assume to himself or transfer to some one else the powers of the High Court. In the next place, if the President is satisfied that a situation has arisen whereby the financial stability or credit of India or any part of it is threatened, he can declare an emergency and issue directions for the reduction of the salaries and allowances of servants of the Union or the States. The procedure and duration of the emergency in these two cases are similar to those described in connection with the first.

The Role of the President.— The powers vested in the President as described above are immense ; they look formidable enough. If

he were in a position to exercise them on his own initiative and responsibility, he would be a very powerful ruler of men indeed. But the Constitution does not intend to make him a real, effective governing authority ; he is designed to be the Head of the State but not the head of the executive ; he represents the Nation and is the symbol of its unity, but does not rule over it. As has been pointed out before, by instituting a Council of Ministers under the leadership of the Prime Minister to aid and advise him in the exercise of his functions the Constitution makes the President of India the Head of a Parliamentary state, enjoying only *nominal* powers. There can be no danger of his becoming a despot or a dictetor. The Constitution says explicitly that all executive action of the Government will be *expressed* to be taken in his name. It means that the responsibility for the decision lies elsewhere, i. e. with the Cabinet ; only the order for carrying it out is issued in the name of the President.

There are, however, a few points which require consideration in this connection. The Constitution nowhere says that the President is *bound* to accept the advice given by his popular ministers. Nor is there any provision for the countersignature of a minister on the orders issued in the name of the President, as is the case in France, to show that action has been taken on his advice and responsibility. To this it may be replied that it is the unexpressed intention of the Constitution that the President would be generally bound by the advice of the Ministers and cannot act contrary to their advice. If he insists upon disregarding their advice and doing things in his own way, he can be impeached. It is important to note in this connection that the impeachment is not a judicial proceeding before a court of law ; it is wholly a political matter and is conducted by Parliament alone. So long as the Ministers command a majority in the House of the People, the President cannot go against them. A convention to this effect is expected to develop in our country parallel to what exists in Great Britain.

Doubt has been expressed in certain quarters that President is not expected to consult the Ministers in the exercise of his power to declare an emergency and abide by their opinion ; it has been suggested that in this sphere at least the constitution may be presumed to give him some discretion. Law makes him the sole judge to decide whether or not an emergency exists. This view does not seem to be correct. Even though the constitution does not say so explicitly,

the power to proclaim an emergency is too great a burden to be borne by an individual single-handed. It may be assumed that the President would not exercise it without reference to his Ministers, particularly in view of the fact that the Proclamation of Emergency has to be placed before both Houses of Parliament and cannot remain in force for more than two months unless it is approved of by Parliament. It is impleid in this Constitutional provision that the President has to exercise these powers in accordance with the wishes of the Parliament.

There are, however, some powers of the President whose exercis seems to be incompatible with the proper working of the parliamentary system. Article 111 empowers him to return a bill other than a money bill to the Houses with a message requesting that it may be reconsidered and amended on lines suggested in the message. He can also send messages to Parliament from time to time on bills pending before the Houses. The British King has no such powers ; he neither sends any messages to Parliament, nor does he return any bill to it for reconsideration. There seems to be no necessity for such provisions in a parliamentary state. To return a bill to the legislature which has been passed with the consent and support of the ministers shows that the President does not agree with his Ministers which is meaningless. Furthermore, is the Bill to be returned on the advice of the Ministers or is the President to act on his own initiative in the matter ? The first alternative seems to be devoid of sense. Why should the ministers advise him to return a bill which has been passed with their support ; no bill can secure passage in Parliament to which the cabinet is opposed. The second is inconsistent with the principles of parlimentary system. Similar considerations apply to the sending of messages on pending bills ; it would be better for the Ministers themselves to say in the legislature what they want rather than put it in the mouth of the President. It seems that these provisions have been borrowed from the American system wherein they have a right place because the President has no direct and formal contact with the Congress. But in our cuontry they appear to be uncalled for in view of the contact of the President with Parliament through his Ministers. The power of the President to require that the Cabinet considers any matter concerning which decision has been taken by a Minister but which has not been considered by it. also seems to be inconsistent with the principles of parliamentary government.

We may therefore conclude that, inspite of the long and formidable array of powers vested in him by the Constitution, the President of the Indian Republic will have little or no real and effective governing authority. The powers vested in him are meant to be exercised by the Cabinet or Council of Ministers. But this does not mean that the President is a 'magnificent cipher' in the political life of the country. One of his most important function is to 'protect and defered the Constitution. This may on occasions give him much power. Like the British King he is there to act as the friend, adviser and critic of the government of the day. He has the right to warn, and the right to encourage, and through the exercise of their rights he is in a position to exercise considerable influence on the administration. This influence is derived partly from his position as the Head of the State and as the symbol of the Nation ; partly it will depend upon his own personality, character, tact and experience. It is bound to be great if the President is a man of sterling character and dynamic personality with a long record of devoted and selfless service to the country. It will be great and wholesome to the degree to which he is able to raise himself above party politics. What traditions will grow round the office of the President in India is for the future to determine : they will depend to a large extent upon the personality and character of the first few holders of the office and the personality and character of the Prime Ministers. It may be hoped that it will not degenerate like the French Presidency but become something like the British Crown, even though an indirectly elected President cannot easily acquire the halo and romance generally associated with a hereditary monarch.

The Vice-President.—There shall be a Vice-President of the Union who shall be the ex-officio Chairman of the Council of States and shall hold no other office of profit in the state. He is to discharge the functions of the President during casual vacancies in the office , *i.e*, during the absence of the President caused by illness, removal or resignation. When thus functioning he will have all the powers and immunities of the President and shall not preside over the meetings of the Council of the States. The Vice-President is to be elected by the members of both Houses of Parliament according to the method of Proportional Representation by Single Transferable Vote and by secret ballot. Qualifications for the candidate for the Vice-Presidentship are similar to those for the President except that in

this case the candidate must be eligible for membership of the Council of the States.

It should be remembered that the Vice-President functions as the President only during casual vacancies. He does not automatically become the President for the rest of the term, if the President resigns or dies. The Constitution says that an election to fill a vacancy in the office of the President caused by his resignation or death must be held within six months from the date of the vacancy.

B. The Council of Ministers.—It has been shown above that, though the executive authority of the Union is vested in the President, he is not meant to be the real and effective governing authority ; he is nothing more than the constitutional Head of the Republic. The real governing authority is to be found in the Council of Ministers with the Prime Minister at its head. In ordinary parlance it is known as the Cabinet.

Formation of the Cabinet—Article 75 of the Constitution says that the Prime Minister shall be appointed by the President. He, i. e., the President, shall appoint other Ministers on the advice of the Prime Minister. All the Ministers shall hold office during the pleasure of the President, and the Council of. Ministers shall be collectively responsible to the House of the People. A Minister who is not a member of either House of Parliament for a period of six consecutive months shall cease to be a minister at the end of the period, Every Minister shall taken an oath of office and of secrecy on entering office. The salaries and allowances of the Ministers are to be determined by Parliament from time to time. These are all the formal provisions contained in the Constitution regarding the formation of the Council of Ministers, the qualifications of the ministers and their relation to Parliament. They lay down the essentials of the system, but do not give us a realistic account of the way in which the Cabinet is actually formed or the way it functions ; for it we have to supplement the formal provisions of the Constitution with the conventions which govern the working of parliamentary system as it operates in Great Britain.

The President of the Indian Union is not likely to have any real freedom in appointing his Prime Minister. As is the case in Great Britain, the Prime Minister is most likely to be indicated by the party position in the House of the People. The President would always invite the leader of the party or the coalition having a

majority in the House to form the Cabinet. It is only if we develop the multi-party system, which eannot be ruled out as an improbable event, that the President would be in a position to choose from among a number of alternative candidates. It may also be pointed out that by making the Council of Ministers responsible to the House of the People the Constitution indirectly rules out the possibility of a member of the Council of States being selected as the Prime Minister.

The provision that the President shall appoint the other Ministers on the recommendation of the Prime Minister embodies one of the conventions of the Cabinet system. But this should not be taken to imply that the President can exercise no influence on their choice. Like the British King, he has the right to object to the inclusion of a person he disapproves of; he may recommend some other person whom he thinks to be a better choice. The Prime Minister is expected to attach due weight to the suggestions made by the President but is not bound to accept them ; the final word lies with him. If he insists upon the list as prepared by him, the President has no option but to give way ; unless he can find some other person to form the Council of Ministers which may not always be easy or feasible.

It should be borne in mind that in selecting his colleagues in the Cabinet the Prime Minister does not have an absolutely free hand. There may be some leaders in the party whom he cannot ignore even if he want to. In our country he would have to include representatives of minorities like the Muslims, Sikhs, and Scheduled classes, and also give representation to different geographical areas. It is not always an easy task to get together a team which would work harmoniously and at the same time satisfy sectarian, communal and geographical interests.

The Constitution does not fix the strength of the Council of Ministers Its size at any time would depend upon the requirements of the situation and may vary from time to time. This is in accord with the Birtish practice. Except saying that no person can hold the office of a minister for more than six months without being a member of Parliament, the Constitution does not lay down any qualifications for ministers. Though the wording of clause 5 of Article 75 leaves it open to the Prime Minister to include in his Cabinet a person who is not a member of either House of Parliament at the

time of his appointment, normally he would have to confine his choice to members of Parliament only. Once the difficulties of the transitional period are over and the country settles down to work the constitution in the proper way, it would be very difficult, almost impossible, for the Prime Minister to go outside the ranks of active parliamentarians for constituting the Cabinet. As in Great Britain and elsewhere cabinet ministership would be the reward of a long and successful career in Parliament where the member would have proved his worth and mettle.

After having chosen his team, the Prime Minister has to distribute the various portfolios among them. Sometimes the task may present difficulties and sometimes it may be easy enough. It should be remembered that the distribution of portfolios is the business of the Prime Minister and not that of the President.

The Constitution makes mention of Ministers but not of Ministers of State and Deputy Ministers. In January 1952 the Union Ministry consisted of 13 Cabinet Ministers, 7 Ministers of State and 6 Deputy Ministers. A little while ago their member was 15 Cabinet Ministers, 12 Ministers of Cabinet rank, 13 Deputy Ministers. Ministers of States, now known as Minister of Cabinet rank and Deputy Ministers hold a rank lower than that of Cabinet Ministers and are not entitled to attend and participate in the deliberations of the Cabinet. A Minister of Cabinet rank may, however, be invited to participate in Cabinet deliberations whenever a matter concerning to his department is being discussed. It may be mentioned in passing that the tendency is for the Cabinet and the Ministry to increase in size. This is because the functions of the Government are expanding as the State progresses towards the ideal of the Welfare State. It may be said that they form part of the Ministry but not of the Cabinet. The President had to issue an Ordinance to the effect that these offices shall not be counted as offices of profit for the purposes of Article 102, and thereby making it possible for them to retain their seats in Parliament. Though the Constitution does not provide for it, there was a Deputy Prime Minister in the central Cabinet. After the passing away of Sardar Patel the office was discontinued. It may also be mentioned that there is parliamentary secretary however lower in rank than Deputy Minister.

The Cabinet meets as and when desired by the Prime Minister who is responsible for the preparation of the agenda. It meets

usually once a week. Its proceedings are characterised by secrecy; no member is allowed to divulge to any person what transpires at its meetings. The Cabinet has a secretariat of its own whose function is to prepare the agenda under the direction of the Prime Minister, keep a record of its proceedings and collect such information as may be needed by the members. It functions on the principle of collective responsibility which means that all Ministers are jointly responsible for every legislative and executive act of the Government. A Minister cannot disown responsibility for or criticise or vote against a bill introduced by another minister, however much he may disagree with its provisions. If a minister feels that he cannot defend the policy of the government or a measure sponsored by any of his colleagues, he has no alternative but to resign. Dr. Shyama Prasad Mukerji and Shri K. C. Neogi resigned because they could not support the Indo-Pakistan agreement concluded between the Prime Ministers of India and Pakistan; Dr. John Mathai resigned because he did not agree with the setting up of the Planning Commission. If a Minister makes a declaration of policy or adopts a line of action without the previous approval of the Cabinet and it is not accepted by it, he has to resign. He has no right to commit his colleagues without their consent.

The principle also means that the defeat of any measure sponsored by the Cabinet involves the resignation of the Cabinet as a whole and not merely that of the Minister to whose department it belongs. It is only when a decision is the decision of an individual minister and not that of the Cabinet that its rejection by the House involves the resignation of the minister alone and not that of the Cabinet. This happens but seldom. Secrecy of the proceedings of the Cabinet is very necessary for the observance of the principle of collective responsibility. It may also be pointed out here that the Cabinet is responsible to the House of the People and not to the Council of States. It can have no fixed term, but remains in office so long as it retains the confidence of the majority in the House. This makes the House of the People the master of the Cabinet in the legal and technical sense as the British House of Commons is the master of the British Cabinet. But as in Great Britain the actual relationship between the two has been reversed. During the few years the Constitution has been in force the Cabinet has dominated the show in the Union Government and its responsibility to the

Legislature has been more nominal than real. This has been due partly to the dynamic and dominating personality of the Prime Minister, and partly to the working of the party system. The great majority of the Congress party enables the Cabinet to control the House of the People.

The provision of the Constitution that the Ministers shall hold office during the pleasure of the President may seem to be inconsistent with the provision that the Council of Ministers shall be collectively responsible to the House of the People. It may be argued that if the tenure of the Cabinet depends upon the support of the majority in the House of the People, how can the Ministers be said to hold office 'during the pleasure' of the President ? There is, however, no inconsistency between the two requirements. The phrase 'hold office during the pleasure of the President' does not mean that the President can dismiss a Minister at his sweet will and in an arbitrary way. The power of removing a minister has been lodged in the President in accordance with the principle that only the appointing authority can remove a person from office. The President can exercise his power of removal only in conformity with recognised principles. He will dismiss a Minister only when the Legislature has shown its want of confidence in him. It can do so by passing a vote of non-confidence in him, by reducing his salary, by rejecting a legislative measure pertaining to his department and introduced by him or on his behalf, and by throwing out or making a token reduction in the demand for grant for his Department made by him. But in all such cases the Minister concerned will himself resign rather than force the President to dismiss him. Under parliamentary government the occasion for the President to use his power of removing a minister from office will hardly arise. There is, however, one ground on which the President can exercise this power ; namely, if a Minister has been guilty of corruption or is inefficient. A whole ministry can be dismissed on the charge of corruption or mal-administration.

Leadership of the Prime Minister—Our Constitution explicitly and definitely recognises the leadership of the Prime Minister ; it says that he is the head of the Council of Ministers. This leadership manifests itself in several ways. In the first place, it is he who is invited by the President to form the Cabinet. The other ministers are selected by him and appointed by the President on his recom-

mendation. He is thus central to the formation of the Cabinet. Secondly, it is he again who puts every minister where he is by allotting to him one or the other portfolio. He also exercises a general supervision over the work of his colleagues and irons out the differences between them and settles inter-departmental disputes. No Minister can pursue a policy or adopt a line of action of which he disapproves. In case a Minister does not agree with the views and policies of the Prime Minister, he has to resign. Reference has been already made to the resignations of Messrs. S. P. Mukerji, K. C. Neogi, and John Mathai. The Prime Minister can demand the resignation of a minister; he can secure his dismissal by the President in case he does not resign himself. He is thus central to the life of the Cabinet. He is central to its death also; his resignation means the resignation of the entire cabinet. He has been rightly described as the key-stone of the Cabinet arch, as the steersman of the ship of the state.

The Prime Mihister is charged with the duty of communicating to the President all decisions of the Council of ministers relating to the administration of the affairs of the Union and proposals for legislation, and of furnishing such information relating to them as the President may call for. This means that the Prime Minister alone is the chanel of communication between the Council of Ministers and the President; no other Minister can discuss administrative questions with the President directly, or reveal to him what transpired at a Cabinet meeting. This also establishes the primacy of the Prime Minister over the other ministers.

The constitution says nothing about the meetingsof the Cabinet. It may be presumed that, in accordace with the British practice, the Prime Minister will preside over them. This follows from his position as the Head of the Council of Ministers and his duty to communicate to the President its decisions on all important matters. The Constitution of the French Republic draws a distinction between the Council of Ministers and the Cabinet. The French President presides over the meetings of the former which are formal, and the Prime Minister presides over those of the latter which are informal. Our Constitution makes no such distinction; the Council of Ministers and the Cabinet are two names for the same thing. It may be presumed that the President has no occasion to hold consultations with his Council of Ministers as a whole; he deals with it only

through the Prime Minister.

The Prime Minister has a secretariat of his own, distinct from the Cabinet secretariat, to assist him in the discharge of his duties, particularly in matters of correspondence, collection of information and interviews.

Functions of the Cabinet—Although the Constitution says nothing more about the functions of the Council of Ministers than that it is to aid and advise the President in the exercise of his functions, it can be safely presumed that it is designed to be the real executive organ of the Union Government. All the powers formally vested by the Constitution in the President are really its powers ; the praise or blame for the way in which the affairs of the nation are administered goes to the Cabinet and not to the President who occupies a position of irresponsibility. The Cabinet thus wields enormous power and shoulders great responsibility. Like the British Cabinet it can be said to be the steering wheel of the ship of the state, the most important single piece of mechanism in the machinery of the state.

The normal functions of the Cabinet include the conduct of the day-to-day administration of the affairs through the various administrative departments over each of which one or the other Minister presides. It is responsible for the enforcement of laws made by the legislature, the maintenance of peace and order in the country and its defence against foreign aggression. If war breaks out, the responsibility for waging it successfully falls upon it. The declaration of war, the concluding of peace, the negotiation of treaties with foreign states and the maintenance of friendly relations with them also come within its scope. It enjoys a good deal of patronage also ; appointments to high offices like the Governorship of States and ambassadors are made on its recommendation. It is also the chief policy-framing agency in the state. It defines the lines of national policy, domestic and foreign, and decides how each problem, as it arises, is to be solved. It is also one of its important functions to co-ordinate the activities of the different administrative departments and prevent friction, overlapping and waste. It is responsible for the preparation of the budget and the determination of the financial policies of the nation. It decides how much money is to be raised for meeting the expenditure of the state and how it is to be raised. No proposal for raising money or for expenditure can

come before Parliament without its recommendation. After the budget has been passed by Parliament it falls to the Cabinet to give effect to its provisions. It sees that the appropriations are properly made use of and no money is wasted, and that the revenues are properly collected. Subject to the final authority of Parliament it is the custodian of national finances.

Though essentially an executive organ, the Cabinet has a good deal to do with the work of legislation also. It determines the legislative programme of the Government and decides the order in which bills are to be introduced in Parliament. With its majority in the House of the People it is in a position to secure the passage of any bill in which it is interested and prevent the adoption of a measure to which it is opposed. This is what happens in Great Britain where the Cabinet is said to legislate with the help of the House of Commons; and it may be expected that things will not develop along different lines in our country. It may also be hoped that the Cabinet will be in a position to control the time-table of Parliament.

Finally, reference may be made to the power of the Cabinet to secure the dissolution of the House of the People and appeal to the country in case there is a sharp difference of opinion on a vital matter between the two. Formally, the right to dissolve the House of the People belongs to the President, but it is to be exercised on the advice of the Council of Ministers, In Great Britain it is the Prime Minister who advises the King to dissolve the House of Commons whenever he deems such a course necessary or expedient. The King does not refuse the request. The Prime Minister generally takes the leading members of the Cabinet into his confidence in deciding when to ask for a dissolution. It is hoped that the same tradition will develop in our country also. It is a great power by the threat to exercise which the Cabinet can keep recalcitrant members of the House under control.

From the foregoing it will be clear that the Cabinet is the central directing force in the machinery of government, although technically it is there merely to aid and advise the President in the exercise of his functions as the supreme executive authority of the Nation. It may be presumed that things in our country will not develop on lines different from those in Great Britain.

The Cabinet has a secretariat of its own. It consists of one

Joint Secretary, two Deputy Secretaries, two Under Secretaries, one Assistant Secretary, five Staff Officers, four Superintendents, three Economic and Statistical advisers and the junior staff. In other Departments also they have a large number of Secretaries, Deputy Secretaries, Joint Secretaries, Assistant Secretaries, Superintendents, etc. But it is not relevant to our present purpose to go into the organisation of the different administrative Departments.

CHAPTER XVI

Government of the Union *(Continued)*

The Legislature and the Judiciary

Introductory—Having completed our survey of the executive branch of the Government of the Union in the preceding chapter, we now turn to its legislative and judicial organs.

The legislative branch is officially designated as Parliament. It consists of the President and two Houses respectively called the Council of States and the House of the People. It is thus organised on the bicameral basis. In this respect our Constitution has followed in the footsteps of the Government of India Act of 1919 and that of 1935, and also conforms to the practice prevailing in countries having the federal constitution.

The President—The Constitution makes the President an integral part of the Union Parliament. Though he cannot be a member of any house. His role in law-making is confined to giving assent to bills passed by the two Houses, returning bills for reconsideration by the chambers, sending messages to them on pending bills, and giving consent for the introduction of certain types of bills. As the chief executive it is his right to summon Parliament into session, prorogue it, dissolve the House of the People and issue orders for the holding of new elections. He has the power to issue ordinances during the recess of Parliament. These points have been dealt whith in the section dealing with the legislative powers of the President on pages 497-98 above, and so nothing more need be added here.

The Council of States—The Council of States constitutes the upper chamber of Parliament. As its very name indicates it represents the States which form the units of the Indian Union. Like the American Senate it is a *permanent* body; it is never dissolved and never completely reconstituted; as nearly as possible one-third of its members retire every two years. The Constitution does not specifically lay down the term for which its members are to be elected; but from the foregoing provision it can be concluded that they are to be elected for a six-year term. It consists of two groups of members: (*i*) a small group of 12 persons nominated by the President from among well-known personalities in the realm of literature, science, art, and social service; and (*ii*) a much larger group of not more than 238 persons who represent the various States. Its maximum strength cannot thus exceed 250 which is half the maximum strength of the House of the People. Out of the 238 seats, only 204 have been allotted to the various States, and the remaining 34 have been kept in reserve. The scheme of distribution among the various States is as under :—

Part A States : Assam, 6; Bihar, 21; Bombay, 17; Madhya Pradesh, 12; Madras, 18; Orissa, 9; Puujab, 8; Uttar Pradesh, 31; West Bengal, 14, and Andhra 12. The total of seats assigned to Part A States is 148.

Part B States ; Hyderabad, 11; Jammu and Kashmir 4; Madhya Bharat, 6; Mysore, 6; Patiala and East Punjab States Union, 3; Rajasthan, 9; Saurashtra, 4; Travancore-Cochin, 6. Vindhya Pradesh which was originally put among Part B States was assigned 4 seats, but now it is included among Part C States. Excluding it the total of seats assigned to Part B States is 49.

Part C States : Ajmer and Coorg, Bhopal, Manipur and Tripura, Bilaspur and Himachal Pradesh, Delhi, Kutch and Vindhya Pradesh heve been given one seat each. Cooch Bihar which was originally a Part C State is now a part of Bengal. So the total for Part C States Now stands at of the total for all states is 204. The total strength of the Council is 216.

It would be noted that the priniple of equality of representation of all the units which has been observed in the composition of the upper chamber in the U. S, A., Switzerland and elsewhere, has not been followed by the framers of our Constitution; they have distributed seats among the various State roughly in proportion to

their population, as is also the case in Canada. To have adopted the American principle of equality of representation would have meant that Part C States whose population and importance are much less than those of Part A States would have secured as many representatives as the latter. Part B and Part C States whose population is only about one-third of the population of Part A States would have secured about twice as many seats as the latter — a thing obviously unfair and unjust.

Unlike the American Senate the Indian Council of States is to be *indirectly* constituted. Representatives of States specified in Parts A and B of the First Schedule are to be elected by the elected members of the Legislative Assembly of the State concerned. Elections are to be held on the basis of proportional representation and by means of single-transferable-vote system.

Though there is no harm in departing from the federal principle of giving equality of representation to all the States in the upper chamber irrespective of differences in size and population, the election of members of the Council of States by the State Legislatures on the basis of Proportional Representation may lead to serious difficulties in the future. The method of indirect election by State Legislatures was tried in the U. S. A., and had to be given up in favour of direct election by the people. If the method of indirect election was to be adopted in preference to direct election, the French system of election by an electoral college coasisting of different types of members would have been better. The method laid down by the Constitution places too much power in the hands of the members of the Legislative Assemblies of the States. Perhaps it was adopted because our Council of States is not expected to play any important role in the political life of the nation ; it is one of the weakest second chambers in the world.

To be qualified for election to the Council of States a candidate must be (*i*) a citizen of India, (*ii*) not less than 30 years of age, and (*iii*) possess such other qualifications as may be prescribed by Parliament. The holder of an office of profit under tee Government of India, an indischarged insolvent, an alien, a person of unsound-mind and a person disqualified under any law passed by Parliament cannot stand for election to the Court.

The Vice-President of the Union is the ex-officio Chairman of the Council of States. A similar practice prevails in the United

States of America. He is not a member of the chamber and has no right to vote except in case of a tie. The Council chooses one of its members as the Deputy Chairman. He acts as the Chairman in the absence of the Vice-President. The quorum of the Council is one-tenth of its total strength.

The Role of the Council of States— Although the Constitution makes the Council of States a coordinate branch of Parliament by laying down that any bill other than a money bill can be initiated in either House and that no bill can be said to have been passed by Parliament unless it has been agreed to by both Houses in the same form, the procedure it has laid down for solving the differences beetween it and the House of the People makes the equality of legislative powers unreal. The President is empowered to call a joint sitting of both the Houses of Parliament for resolving the differences between them in regard to any bill. In the joint sitting the Council will be outnumbered by the House which has more than double its strength. It cannot block legislation permanently; all it can do is to delay legislation by six months at the most. It is thus weaker than even the British House of Lords. In financial matters it is completely powerless. Money bills cannot be initiated in it: they must always originate in the Hause of the People. After having been passed by the House, a money bill is sent to the Council which must make whatever recommendations it wants within 14 days. The House may accept or reject those recommendations. Thus the final word in financial matters lies with the lower House. The Constitution makes the Council of Ministers responsible to the House of the People only. But the council of states can exercise influence our administration by means of question, motions of at general isolations and devates in the same of as the house can. Cabinet ministers can be appointed from among its members. The present house Minister is a member of the Council of States.

The Council has been given some Constituent Powers. Its concurrence by the stipulated majorities is necessary for all amendments. It can declare a subject included in the State List to be of national importance by a two-thirds majority, and thereby enable Parliament to legislate on it. Such a resolution can remain in force for one year only. The Council joins the House of the People on a footing of equality in the impeachment of the President, and in presenting an address to the President for removing a Judge of the

Supreme Court or of a High Court. A Proclamation of Emergency issued by the President requires the approval of the Council for its continuance. These powers are not of great significance in the day-to-day administration of the country. We agree with Dr. M. P. Sharma in his view that the 'Conucil of States does not seem to have been created with any particular purpose beyond bringing the constitution in line with the prevailing fashion of bicameralism. In our country, the credit of second chambers has at no time been high, and it will not be surprising if the Council of States lives simply to serve as one of the ornamental parts of the constitution.'*

The House of the People — The House of the People is the lower and popular chamber of the Indian Parliament. It represents the people of the Union and not the States, and is to be a much bigger body than the Legislative Assembly constituted under the Act of 1919 or the House of Assembly as proposed under the Government of India Act of 1935. It is to consist of not more than 500 members. The Representation of the People Act of 1950 passed by the Provisional Parliament fixed its strength at 496. The seats were allocated among the various States as follows :—

Part A States : Assam, 12 ; Bihar, 55 ; Madhya Pradesh, 29 ; Bombay, 45 ; Madras, 75 ; Orissa, 20 ; Punjab, 18 ; Uttar Pradesh, 86 ; West Bengal, 34. Total 374.

Part B States : Hyderabad, 25 ; Jammu and Kashmir, 6 ; Madhya Bharat, 11 ; Mysore, 11 ; Patiala and East Punjab States Union, 5 ; Rajasthan, 20 ; Saurashtra, 6 ; Travancore-Cochin, 12. Total 96.

Part C States : Ajmer, 2 ; Bhopal, 2 ; Bilaspur, 1 ; Coorg, 1 ; Delhi, 4 ; Himachal Pradesh, 3 ; Kutch, 9 ; Manipur, 2 ; Tripura, 2 ; Vindhya Pradesh, 6. Total 25. Andaman and Nicobar Islands have been allotted 1 seat.

The seat allotted to Andaman and Nicobar Islands is to be filled by a person to be nominated by the President. Until the State of Jammu and Kashmir has a regularly constituted legislature, the six seats assigned to it are also to be filled in a similar manner ; *i. e.*, by nomination by the President. It may be expected that in making the nominations the President would be guided by the advice of the provisional government of the State. Seats allotted to the other States are to be filled by direct election by the people organised in

* *The Government of the Indian Republic*, page 147.

territorial constituencies. In case the Anglo-Indian community fails to secure adequate representation, the President may nominate two persons to the House of the People to represent it. It would thus be seen that except for the presence of seven, at the most ten persons the House would be a wholly elected chamber. The number of nominated members would be reduced to 4 when Kashmir sets up a regular Assembly.

As Constituted after the general elections of 1951, the House consisted of 499 members 10 of whom were nominated by President–6 to represent Jammu and Kashmir, 2 to represent Anglo-Indians. 1 to represent scheduled area and 1 to represent Andaman and Nicobar. The rest 489 were distributed among the various States. The number of seats assigned to the States would be determined on the basis of the census of 1952 and the allottment would have to be made in a different way when effect is given to the recommendations of the S.R.C. Report. Therefore no useful purpose would be served by giving the precise distribution of seats among the States.

For the purpose of electing representatives to the House of the People each State shall be divided into a number of territorial constituencies and the number of representatives to be allotted to each constituency shall be determined in such a way that there shall be not less than one representative for every 750,000 and not more than one representative for 500,000 of the population. The ratio between the representatives allotted to each constituency and its total population shall be the same throughout India. As the population of the different States may vary from one census to another, the constitution provides that upon the completion of each census the representation of the several territorial constituencies in the House of the People shall be adjusted by such authority and in such manner as Parliament may by law determine. The changes recommended by such an authority shall not come into force before the dissolution of the then existing House. To eusure fair elections an Independent Election Commission consisting of the Chief Election Commissioner and such other Election Commissioners as the President may fix, will be appointed. It will be responsible for the preparation of the electoral rolls and the conduct and control of elections.

Under the system of election in vogue in our country under the Government of India Act of 1935 people voted in separate communal constituencies. They voted not as citizens but as Muslims,

Christians, Europeans, Sikhs, landlords, labourers, etc. The New Constitution does away with this vicious system of separate cummunal electorates. There will be one general electoral roll for every constituency and it shall contain all the eligible voters irrespective of their religion, race, creed or profession. This is a great and radical change. No seats have been reserved for any community except for the Scheduled Castes and the Scheduled Tribes. The President has been given the power to nominate two members of the Anglo-Indian community if he thinks that this community is not adequately represented in the House of the People. This reservation of seats for the Scheduled Castes and Tribes and the special representation of the Anglo-Indian community are to continue for a period of ten years only. The Constitution does not specify the method of electing candidates to Parliament ; it has left the matter to be decided by Parliament. One thing, however, was made clear. The constituencies shall be territorial and not functional. It has now been decided that they shall be single-membered and not multi-membered, except where a seat for the scheduled castes has been reserved. In such a case the constituency will return two candidates. The system of proportional representation by single-transferable-vote did not find favour with the framers of the Constitution. It leads to the formation of numerous small parties with the result that no single party may have an absolute majority in the House of the People. Under such a condition cabinets are bound to be coalition cabinets which are known to be weak and short-lived. The system of proportional representation is complicated in its working and not suitable to a country like ours where the voters are largely illiterate.

Franchise under the New Constitution—The problem of franchise occupies a vital position in a democratic constitution. How far does a constitution go in the direction of democracy is to be judged by the proportion of the electorate to the total population of the country. Judged by this standard our Constitution can be said to be fully democratic ; its provisions concerning franchise constitute one of its most important features. At one stroke it sweeps away all the antiquated and undemocratic qualifications based upon property, income, title, literacy, etc., which debarred a very large proportion of the population from the right to vote in the preceding regime. Under the Act of 1919 not more than 3% of the total population was given the right to vote. The right was extended to about 14%

under the Government of India Act of 1935. The New Constitution confers it on all adult citizens, men as well as women, who have attained to the age of 21 years or more and have ordinarily resided in a constituency for not less than 180 days, and are not otherwise disqualified on the ground of unsoundness of mind, crime or corrupt or illegal practice. In other words, it bases elections to the House of the people and the Legislative Assemblies in the States on the basis of adult franchise. No citizen can be denied the right to vote on ground of religion or sex, race, etc. Women have been given the right to vote on the same basis as men. It is surmised that our electorate will be the biggest in the world; it will consist of about 170 million voters.

Sceptics may entertain doubts about the wisdom of enfranchising the Indian masses; they may say that they are illiterate and take no interest in public affairs. The constituencies would become too big and unwieldy, and intimate contact between the candidates and their constituents which is necessary for the successful working of representative institutions would become impossible. We need attach little value to such arguments. Our masses, though illiterate, are not ignorant; they possess a great fund of commonsense and are shrewd. There have been a few occasions in the past when they could evince interest in public affairs. Enfranchisement is itself of great educative value; it is calculated to establish political equality in our caste-ridden society. It is the fountain-spring of democracy and without it the democratic experiment would have invited failure from the very outset.

Tenure, Sessions, etc.—The Constitution fixes the life of the House of the People at five years. The expiration of five years from the date of the first meeting of a newly constituted House would operate as its dissolution. But if an emergency has been proclaimed. Parliament may pass a law extending its life by not more than one year at a time. Its life cannot be continued beyond six months after the Proclamation has ceased to operate. It may be noted that the British House of Commons also has a life of five years. The life of the legislatures under the Act of 1919 was three years and under the Act of 1935 five years.

In almost every other country annual sessions of the legislature are the rule, either by constitutional law or by convention. But our Constitution demands that the Houses of Parliament shall be

summoned at least twice a year. More than six months cannot elapse between the last sitting of one session and the first meeting of the other. As has been indicated elsewhere, it is the function of the President to summon either or both Houses of Parliament in session, to prorogue them and to dissolve the House of the People. The Constitution lays down only two qualifications for membership of Parliament and the State Legislatures, citizenship of India being the first and an age limit being the other. It is prescribed that any citizen of India who is not less than 25 years of age can stand for the House of the People. For the Council of States a candidate must be not less than thirty years of age. It has been left to Parliament to lay down by law such other qualifications, educational and others, as it thinks fit. No person can be a member of both the Houses of Parliament or of either House of Parliament and a State Legislative Assembly or Council.

No person can be member of either House who holds any office of profit under any government in the country or is of unsound mind, or voluntarily acquires the citizenship of another state, or is an undischarged insolvent, or is disqualified under any law made by Parliament.

The President appoints an El cti n Commission to superintend, direct and control all matters pertaining to elections. It consists of one Chief Election Commissioner and such other Commissioners as the P esident may fix. The last Commission consisted of one member only. Its chief functions are to have the electoral rolls prepared and appointment of election tribunals for deciding election disputes.

Ten per cent of the total strength of the House constitute the quorum. All decisions will be taken by a majority of the members present and voting. Every Minister and the Attorney General are given the right to speak in and take part in the proceedings of either House of Parliament; they are however not entitled to vote unless they are members of the House.

Members of Parliament enjoy certain privileges and immunities. They have freedom of speech in Parliament and enjoy immunity from penal action for the way they vote and speak. Freedom of speech is, however, subject to the rules and standing orders of Parliament. Until Parliament decides the question they are to enjoy all the privileges and rights enjoyed by members of the British House of Commons including freedom from arrest for any civil or criminal

action other than felony or treason during the session. They are to get such salaries and allowances as Parliament may by law decide. If a member of either House of Parliament is absent from its meetings for more than sixty days without permission, his seat can be declared vacant.

Speaker—The House of the People is to elect from amongst its members one Speaker and one Deputy Speaker. Either of them shall vacate office if he ceases to be a member of the House, and each can be removed from office by a resolution of the House by a majority of members present. The Deputy Speaker is to perform the duties of the Speaker during the abesence of the latter. The Speaker presides over the meetings of the House, recognises persons, *i. e.*, decides as to who is to speak at any time, maintains order and decorum, interprets rules of the House, announces decisions, decides all points of order and gives rulings which are final. He is the custodian of the dignity and prestige of the House and has a casting vote in the case of an equality of votes. The Constitution gives him the power to decide if a bill is a money bill or not. He presides at the joint sitting of the two Houses. It is expected that the Speakership of the House of the People will develop on British lines rather than on American, as the tradition in the past has been to follow the British principle of a non-partisan Speaker. Excepting one Speaker, namely, Shri Purshottam Das Tandon of the U.P. Legislative Assembly, all the speakers have so far followed this tradition.

It may be added that the Speaker does not vote except in the case of a tie. He can, however, vote on a resolution for removing him from office, but in this case he cannot have any casting Vote.

Functions of Parliament—Chapter II of Part V of the Constitution which deals with the constitution of Parliament, its officers, disqualifications of members, legislative procedure, financial procedure, etc., does not say anything specific about its functions. They have to be gathered from different provisions of it which are scattered in different parts. Some of the important functions are not mentioned at all. We may presume that our Parliament is intended to exercise all the functions performed by the British Parliament. This is the natural corollary of the adoption of the parliamentary system of government by the Constitution.

Being the legislative organ of the Government of the Union the making of laws for the good government of the territories of the

Union would naturally be one of the principal functions of Parliament. Its legislative competence is not unlimited like that of the British Parliament ; there are some limitations to it. Ordinarily it has no power to legislate on any subject included in the State Legislative List ; it can do so only when a state of emergency has been proclaimed by the President. It can also legislate on such a subject if it is declared to be of national importance by the Council of States. It has the right to legislate on all matters for centrally administered areas and for the Scheduled Tribal areas. But if any law made by it is inconsistent with the Constitution, it can be declared null and void by the Supreme Court or a High Court if the matter is referred to it. It cannot therefore be maintained that it is a *sovereign* law-making body. The fedral character of our polity and the supremacy of the Constitution detract from its sovereign character. But there is no other authority besides it which can make laws for the Union. It has the exclusive right to make laws for the whole of the country on subjects included in the Union List.

It has some constituent powers also. There are a few constitutional matters which it can alter, amend or repeal in the ordinary way, *e.g.*, redistribution of the area of a State, alteration of official language for purposes of bills, etc., during the first 15 years. Bills for such purposes can be introduced only with the previous consent of the President. There are many more matters which it can amend and alter by special majorities without the concurrence of the States. But in regard to certain vital matters amendments proposed by the House require the assent of the legislatures of at least half of the Parts A and B States. In this respect also its powers are less than those of the British Parliament.

The second main function of the legislature in the parliamentary system is to make the government and keep it in power. Our Constitution provides for it by laying down that the Council of Ministers shall be collectively responsible to the House of the People. In short, we can say that it is the character of the House of the People which will determine the character of the government of the day. Whether the country is to have a Congress, a Socialist, ro a Hindu Sabha government will depend on the composition of the House of the People.

The third main function of Parliament is to control the finances of the nation. The government cannot levy and collect any tax,

borrow money or spend any money on items other than those which are a charge upon the revenues without the explicit permission of Parliament. This point will be elucidated in a subsequent section in this chapter, but this much may be stated here that control over finances is vested in the House of the People only.

Fourthly, like the British Parliament our Parliament also will be the forum for deliberation on national problems and the discussion on policies of the State. By means of resolutions, asking for information, debates, motions of adjournment and discussions on the budget, etc., our Parliament will function as a deliberative body. It is on the floor of the House of the People that all the important problems, both of domestic and foreign policy, are to be debated and discussed and decisions arrived at. This deliberative function is a very vital and important function. The Council of the States can also participate in its exercise ; but discussions in it will not determine policies so much as those in the lower House. It should be remembered that Parliament cannot discuss the conduct of any judge of the Supreme Court or the High Court in the performance of his duties except in dealing with a resolution for his removal.

The next important function of Parliament is to exercise control over administration. The actual work of administration is carried on by the various administrative departments of the State under the charge of different ministers. Parliament exercises control over the administration through its power of granting supplies to them, by holding the ministers responsible for the way they manage the affairs of their departments, by questions and interpellations in the House and through the various committees. The American Congress and the French Parliament perform this function of exercising control over the administration on behalf of the nation more adequately and thoroughly than the British Parliament. To what extent the Indian Parliament will succeed in this respect is for the future to show.

In the sixth place, Parliament acts as the ventilating chamber. As stated above, questions and interpellations constitute one of the means of enforcing responsibility on the ministers. They are also the means of ventilating the grievances of the public. Every working day the House of the People devotes its first hour to questions and answers. A writer remarks that the question hour in the House of Commons is one of the most powerful implements of Democracy in Great Britain ; it is equally interesting and important in the House

of the People in India.

Lastly, if we are to be guided by what takes place in Great Britain, we may say that our Parliament shall be the place where national leaders shall be trained and sifted in the future. So far the Indian National Congress has been the training ground for them ; but as time passes and parliamentary traditions and spirit become established in the country, and what is more important, the old eaders leave the field, we may expect this vital function to be transferred from Congress to Parliament Cabinet ministership will in future be the crown of a successful career in Parliament. The selective and training function is no doubt elusive and subtle ; nevertheless, it is real and vital.

From the preceding account it would have become clear that except in the exercise of constituent authority in amending certain provisions of the Constitution where the two chambers possess equal and concurrent powers and to a lesser extent in law-making, the House of the People virtually constitutes Parliament. In finance, in enforcing responsibility on the ministers, in acting as the forum for the ventilation of public grievances, in exercising control over administration the Council of States has little role to play. Even in law-making the House of the People will prove to be the dominant partner. The equality of powers and status assigned to the Council of States is more nominal than real. This is because unresolved differences between the Council and the House in regard to any bill are not allowed to let it die ; they are to be settled in a joint sitting of the two chambers where the latter will always outnumber the former by more than two to one. It can therefore be concluded that the Council of States will not be able to stand in the way of the House of the People putting any law on the statute book the latter likes. It is one of the weakest second Chambers in the world, weaker than even the House of Lords. It seems to have been established out of deference to the tradition of bicameralism in a federal polity.

Legislative Procedure.—The Constitution lays down only the broad lines of legislative procedure necessitated by the bicameral character of Parliament, and says nothing about the stages through which a bill has to pass in each chamber. Such details and other rules for the regulation of its procedure and conduct of business are to be determined by each chamber for itself. The general practice

for legislative bodies all the world over is to adopt the rules and procedure of the preceding chamber with such modifications as may be deemed necessary. The Provisional Parliament thus adopted the procedure and rules of business of the old Legislative Assembly with some amendments.

A bill other than a money bill may originate in either house. A money-bill can be initiated only in the House of the People. With regard to non-money bills the Indian Parliament makes no such distinction between public and private bills as obtains in Great Britain ; consequently the same procedure is applied to all bills other than money-bills. Distinction is sometimes drawn between bills introduced by private members and bills sponsored on behalf of government. The distinction is important from the point of view of the successful passage of a bill through Parliament, but has no bearing upon procedure. A bill introduced by a private member has not much chance of being placed on the statute book unless it is backed by the Government ; even then it is likely to take a long time.

Every member of Parliament has the right to introduce bills in the chamber to which he belongs ; but private members do not exercise this right to any great extent. A very large part of the bills coming up before Parliament are government measures. Much of the time of Parliament is devoted to their consideration ; the number of days allotted to non-official business is comparatively much smaller This is but natural ; the initiative for legislation in regard to public matters usually comes from the Cabinet which is responsible for the good government of the country and knows best what the legislative requirements of the different departments are.

Although a bill other than a money-bill can be initiated in either chamber of Parliament, all the important bills are first introduced in the House of the People. The person who wishes to introduce a bill, whether a Minister or a private member, has first to seek the permission of the House. Though the House has the right to refuse permission, the request is generally granted. It may also be pointed out here that bills relating to certain subjects, *e. g*., alteration in the name, area or boundaries of a State, the introduction of bi-cameralism in a State or its abolition, require the previous sanction of the President. After the House has given permission for the introduction of the bill, the member introduces it by reading its title

and explaining its main provisions and the need for it in a speech. This is known as the First Reading of the bill. If the bill happens to be important, it may be referred to a select committee, otherwise it goes up for the Second Reading. If the bill relates to a social question or seeks to break new ground, *e. g.*, the Hindu Code Bill, or a bill for the abolition of Zamindari, it is circulated for eliciting public opinion before being entrusted to a select committee. If it is urgent or non-controversial in nature, reference to a select committee may be dropped, and the House is requested to take up the Second Reading immediately. Reference to a select committee is not an invariable practice.

The Select Committee examines the bill in detail clause by clause. It can amend its provisions, even radically, wherever necessary. After having concluded its task, the Committee reports the bill back to the chamber where it is taken up for the second reading on a day fixed for the purpose. The second reading constitutes the most vital stage in the passing of a bill; it is at this time that the chamber subjects the measure to a close and thorough going scrutiny, discusses its principles and objectives and proceeds to a clause-by-clause examination. Members have the right to move amendments which are discussed and put to vote.

It should be noted that in the British Parliament a bill is taken up for the second reading before being referred to a select or standing committee. The House first accepts the principle of the bill and then entrusts it to a committee for detailed study. Clause-by-clause examination takes place during the report stage which is the time for moving amendments. In our Parliament the Committee stage precedes the second reading. The second reading corresponds to the report stage. In other words, our procedure omits one stage and is thus simpler than the British. It should also be remembered that reference to a Select Committee is not necessary in our Parliament. It is only important bills which are sent to Select Committees.

The bill is finally taken up for the Third Reading. It is more or less a formal affair. There is a general discussion on the bill. No amendments are allowed except of a verbal nature designed to remove ambiguities, etc. After it has been accepted by the house, it is transmitted to the other chamber where it has to pass through th same process, first reading, committee stage, second reading and third reading. The other chamber may accept it in the form in which it

has been passed by the initiating chamber—a thing which happens but rarely; or it may accept it with amendments which is more generally the case; or it may even reject it. The differences between the two chambers may be removed by the bill being sent from one House to the other or by the device of a joint committee. If these attempts prove unsuccessful and the Houses are unable to arrive at an agreement, the President may summon them to a joint sitting for the purpose of deliberating and voting on the bill. A bill passed by a majority of the total members of both Houses present and voting at the joint sitting is deemed to have been passed by both of them, and shall be presented to the President for his assent. No bill can be presented to the President for assent unless it has been passed by both the House of Parliament in the same form. This provision and the provision that a bill other than a money-bill can be initiated in either chamber show that the two chambers possess equal and concurrent powers of legislation. But as has been pointed out earlier, this equality of legislative powers is superficial; it exists in theory but not in fact. The Council of States cannot place insuperable obstacles in the way of the House of the People whose supremacy in all matters of legislation is beyond dispute.

Assent to Bills—All bills passed by Parliament are submitted to the President of the Union for his assent which he may give or withhold. He can also return a bill other than a money-bill to the Houses for reconsideration, and suggest the lines on which it may be amended. The Houses are bound to consider the amendments proposed by the President but not to accept them. If the bill is passed again by the Houses with, or without amendments and presented to the President for assent, he cannot withhold it. This means that the messaged veto of the President over legislation is no absolute; it can be overridden by the two Houses of Parliament. This, however, does not apply to his power of withholding assent from non-money bills, this is absolute. But just as the Royal veto in Great Britain has become obsolete, the veto of the President in our country is likely to have the same fate. Its exercise seems to be incompatible with the responsibility of the Council of Ministers to the House of the People.

It may be pointed out here in passing that the dissolution of the House of the People involves the lapse of all the bills pending before it and also of the bills passed by it and pending before the

Council of States.

Procedure in regard to Money-bills—The procedure in regard to money-bills is different from that laid down for other bills in some important respects. In the first place, a money bill can originate only in the House of the People; it cannot be introduced in the Council of States in the first instance. Secondly, the Finance Bill and the Appropriation Bill which are prepared on the basis of the decisions of the House in Ways and Means and the House in Supply* cannot be amended so as to alter the rate of a tax or any appropriation. The bills are not referred to a Select Committee. Thirdly, after having been passed by the House of the People a money bill is sent to the Council of States for its recommendations. The Council cannot amend or reject it, and is given only 14 days to consider it and make its recommendations to the House of the People which may accept or reject them. The final word thus lies with the House of the People; the Council of States has no control over financial matters. Lastly, the President cannot return a money-bill to the House for reconsideration.

A Bill is said to be a Money Bill if it contains only provisions dealing with any one or all of the following matters :

(*i*) The imposition, abolition, remission, alteration or regulation of any tax.

(*ii*) The regulation of the borrowing of money or creation of any financial obligation to be undertaken by the Government of India.

(*iii*) Payments of money into or withdrawal of moneys from the Consolidated Fund or the Contingency Fund of India.

(*iv*) Appropriation of moneys out of the Consolidated Fund.

(*v*) Receipt of money on account of the public account of India and the audit of accounts, and incidental matters.

If a doubt arises whether a bill is a money bill or not, the decision of the Speaker of the House of the People is final. The use of the word 'only' in the definition of a Money Bill shows that the Constitution-forbids the practice known as 'tacking, in the U.S.A. No non-financial provisions can be included in a Money Bill.

The Budget.—The most important financial document is the Annual Financial Statement containing an estimate of the income and expenditure of the Union Government for the year. It is the

* See below, pages 611—12.

duty of the President to get it prepared and placed before both the Houses of Parliament. It is not relevant for our purpose to describe the way it is framed ; we need state only this much that it is prepared under the supervision and guidance of the Minister-in-change of the Finance Department with the concurrence of the Prime Minister. Questions of broad policy are discussed by the Cabinet. It is placed before the House of the People by the Finance Member with a speeeh which ranks as one of the most important delivered on the floor of the House, and is anxiously awaited by the general public and financial, industrial and commercial sections of the community.

The budget in our country is framed and passed in two parts, one dealing with the railway budget and the other with the general budget. The railway budget is presented by the Railway Member. We shall deal with the general budget only. It again consists of two parts. One part deals with the expenditure and the other with the income side of the Union finances. On the expenditure side the Financial Statement must clearly distinguish between (*i*) expenditure charged upon the Consolidated Fund of India, i e., upon the revenues of the Union Government, and (*ii*) items not so charged. The following are the items included in the first category : (*a*) The emoluments and allowances of the President of the Republic and other expenditure relating to his office. (*b*) The salaries and allowances of the Chairman and the Deputy Chairman of the Council of States, and the Speaker of the House of the People. (*c*) Public debt charges of the Union Government. (*d*) The salaries, allowances and pensions payable to or in respect of the judges of the Supreme Court, and pensions payable to the Judges of the Federal Court and the High Courts. (*e*) The salary, allowances and pension payable to the Comptroller and Auditor General of India. (*f*) Sums required to satisfy any judgment, decree or award of any court or tribunal. Lastly, (*g*) any other expenditure declared to be so charged by the Constitution or Parliament, These items of expenditure have been made a charge upon the revenues of the Union Government because they are of a fixed nature and need no variation from time to time. Moreover, they involve no political issues. By making them a charge upon revenues it is meant that they do not require annual parliamentary approval ; the Union Government is authorised to incur expenditure on them without reference to Parliament. Expenditure not so charged has to be referred to Parliament and requires

its sanction before it can be incurred. About 75% of the expenditure of the Government of India was thus charged by the Act of 1935 ; it was non-votable. Some items of expenditure in the English budget also are of this nature ; they do not stand in need of sanction by Parliament every year.

The other part of the Annual Financial Statement deals with the ways and means policy of the Government. It contains the taxation and other revenue raising proposals of the Government, and the estimated income from each source for the coming financial year.

About three days after the introduction of the Budget there is a general discussion on it in the House of the People in which the financial policy of the Government is subjected to criticism. After the general discussion is over, the House takes up the consideration of the various demands for grants. While considering and voting on them the House may be said to sit as the House in Supply : this does not mean that the House sits as a Committee of the whole House as is the practice in Great Britain. The rules governing the financial procedure in the British House of Commons apply in the House of the People also. No demand for grant can be moved in the House except on the recommendation of the President. The House can refuse a grant, reduce it or accept it, but cannot increase it. But generally the government proposals are passed ; refusal or reduction of a grant is regarded as indicating want of confidence in the executive and is therefore resisted by it with the help of its majority. After the House has finished consideration of the various demands for grants, an Appropriation Bill is prepared on the basis of the decisions taken by it and introduced in the House. It has to go through the three readings like any other bill, but no amendments are allowed if they seek to vary or alter the destination of any grant or to reduce the expenditure charged upon the Consolidated Fund ; there is no reference to a Select Committee. The purpose of the Bill is to provide authority for meeting expenditure out of the Consolidated Fund. After it is passed by the House, it is certified by the Speaker as a money bill and transmitted to the Council of States for its recommendations. As has been pointed out earlier, the House may accept or reject the recommendations made by the Council of States. It is then presented to the President in the form in which it is finally passed by the House. The President cannot

return it for reconsideration.

After the House has voted supplies to the Government, it takes up the consideration of the government proposals for raising the necessary revenues for meeting the expenditure. It may then be said to function as the House in Ways and Means. It can assent to, or refuse to assent to any of the taxation proposals, or reduce the amount of any tax as recommended by the President, but it cannot increase any tax or propose a new one. On the basis of the decisions taken by it as the House in Ways and Means the Finance Bill is prepared and introduced in the House of the People. It has to go through the three readings, but no amendments proposing any changes in the rates of taxes, etc., are permitted at any stage. After it is passed by the House it is certified by the Speaker as a money bill and sent to the Council for its recommendations. The recommendations must be made within 14 days; they may be accepted or rejected by the House. The Bill as finally accepted by the House is submitted to the President for his assent. Being a money bill it cannot be returned for reconsideration.

Under the old system the Appropriation Bill and the Finance Bill had to be passed before the commencement of the new financial year on the first of April. This rule does not apply now the system of Votes on Account makes it possible for the House to continue discussion on the estimates of expenditure and of income for weeks and even months after the new financial year has begun. A Vote on Account is a grant made in advance by the House in respect of any estimated expenditure for a part of the ensuing financial year pending the passing of the Appropriation Act. This is a great improvement; it would enable the House to take its own time in granting supplies to the Government, and to discuss them thoroughly.

The Constitution permits the House of the People to grant Votes on Credit also. A Vote on Credit is a grant made for meeting an expenditure whose amount or details cannot be stated precisely in the Annual Financial Statement on account of the indefinite nature of the service for which provision is to be made. The House can also make an exceptional grant which forms no part of the current service of the financial year. If there is an unexpected item of expenditure which is not covered by a Vote on Credit or an exceptional grant, the President can advance funds for meeting it

out of the Contingency Fund. Such grants have to be subsequently authorised by Parliament.

The Comptroller and Auditor General — The financial procedure as descibed above is intended to secure that Government can raise its revenues and spend them only under the authority of Parliament. But this by itself is not sufficient for the realisation of effective popular control over the national finances. For this purpose it is further necessary that the expenditure incurred by the executive under any item should not exceed the sum provided by Parliament. This function is performed by the Comptroller and Auditor General for whose appointment provision is made in the Constitution. He is appointed by the President and is not eligible to hold any office after relinquishing his charge. His salary and allowances are a charge upon the revenues of the Union and cannot be varied during his term of office.

The chief function of the Comptroller and Auditor-General is to control all disburesments on behalf of the Union and the States and to audit all accounts of moneys spent by and under the authority of Parliament and the State Legislatures. He is thus the custodian of the public purse and the controller of public expenditure. As stated above, it is his duty to see that the sums granted by the legislature for any purpose are not exceeded by the government or transferred to some other head. He also prescribes with the approval of the President the way in which the accounts of the Union and the States are to be kept. He prepares the audit reports of the accounts of the Union and the States and causes them to be laid before each House of Parliament and the State Legislatures as the case may be. He is thus one of the most important officers of the Union.

The Union Judiciary — From the Union Parliament we now turn to the Judicial organ of the Union Government and shall describe the composition, powers, etc., of the Supreme Court as prescribed in the Constitution. But before doing so it seems desirable to refer to one vital feature of our judicial system. Contrary to the American system our Constitution provides for a *single* integrated judiciary for the country as a whole. No doubt, the Supreme Court is the judicial organ of the Government of the Union, and the various States of the Union have their High Courts and Distric Courts. But whereas the Union Parliament and the State Legis-

latures do not form part of a single system and are independent of each other, as the Union Executive and States Executives also are, the Supreme Court and the High Courts and District Courts in States are not independent of one another but constitute one integrated whole. In other words, whereas we have dual executive and dual legislature like all other federal systems, we have a single and unified Judiciary. The constitution and organisation of the High courts is a Union subject, and the High Court judges are appointed by the President and can be transferred from one State Court to another. Appeals from the High Courts go to the Supreme Court whose jurisdiction covers the whole of India. The State Courts can hear and decide cases arising under laws made by the Union Parliament and involving an interpretation of the Constitution ; there are no separate federal courts to try cases arising under federal or Union laws. The only thing which distinguishes Union from State judiciary is the fact that expenses of the former are met from Union revenues, while those of the latter from State revenues. Such is not the case in the United States of America where the Federal Government has its own courts and the States their own, and the two systems remain distinct and separate.

We have not only a unified judiciary, but also one common system of fundamental law. 'The unity of the legal system of the country in its fundamentals is a legacy from the British regime and the new constitution carefully preserves it by placing such basic branches of law as criminal law and procedure, civil procedure, marriage and divorce, adoption, wills, intestacy and succession, transfer of property, contracts, evidence, etc., on the concurrent list.'* These provisions owe their existence to the desire of the fathers of the Constitution to preserve and promote the unity of the country.

In this section we shall deal with the Supreme Court which is at the apex of the system. The constitution, powers, etc., of the High Courts and the District Courts have been described in Chapter VIII.

The Supreme Court — The Supreme Court replaces the Federal Court as constituted under the Government of India Act of 1935. It is designated as the Supreme Court to indicate the fact that it is the highest and final court for the whole country. It

* Dr. M. P. Sharma : *op. ct.* page 202.

should be remembered that during the British regime appeals from the High Courts and the Federal Court lay to the Judicial Committee of the Privy Council in Great Britain. That was because India was politically dependent upon Great Britain. Now, appeals to the Privy Council have been abolished ; the highest tribunal of the country is within it and not in Great Britain. This fact is symbolic of the new political status of India, namely, her sovereign and independent status.

The Supreme Court consists of a Chief Justice and not more than seven other judges. A few years ago it had six Judges, one Chief Justice and five other Judges; but now it has eight Judges. Parliament can by law increase the number of Judges. If at any time a sufficient number of Judges is not available to constitute the quorum, the Chief Justice may appoint *ad hoc* Judges from among the duly qualified Judges of a High Court for such period as may be necessary with the consent of the President. The system of appointing *ad hoc* Judges has been adopted in place of the old practice of appointing temporary Judges.

In order to be qualified for appointment as a Judge of the Supreme Court a person must be a citizen of India and should have held office as a High Court Judge for at least five years. or be a High Court Advocate of not less than ten years' standing, or a distinguished jurist in the opinion of the President. The Chief Justice is given a salary of Rs. 5,000/- p. m. and an associate Judge of Rs. 4,000/- a month. They also get a rent-free official residence. The Judges have security of tenure. They hold office till the age of 65, but can resign office earlier. A Judge can be removed from office by the President on the ground of proved misbehaviour or incapacity. The President can remove a Judge only when an address is presented against him by each House of Parliament by a majority of the total membership of the House and a two-thirds majority of the members present and voting. Retired Judges are debarred from starting practice before any court in the country. These provisions are meant to give them security of tenure and ensure their independence.

The Judges are appointed by the President of the Union. The President is, however, not absolutely free in making the appointments; he is required to consult high judicial authorities. In appointing the Chief Justice he has to consult such judges of the Supreme Court and the High Courts in the States as he deems necessary; and as

regards associate judges he is required to consult the Chief Justice. A convention has developed that no appointment can be made unless the Chief Justice agrees to it. High Court Judges also are appointed by the President after consulting the Governor of the State and the Chief Justice of the High Court and the Chief Justice of India. Here also the work of the Chief Justice of India is decisive. This method adopts a middle course between the English practice which gives complete and full discretion to the executive authority in the selection of the judges and the American system according to which the Presidential nominations require confirmation by the Senate by a two-thirds majority.

The Supreme Court sits normally at Delhi, but the Chief Justice may from time to time and with the approval of the President fix some other place where it may sit. It is a court of record and has all the powers of such a court to punish for contempt of itself. A court is known as a court of record when its acts and proceedings are recorded for perpetual memory and admitted to be of evidentiary value. They are not to be questioned when they are cited before any lower or subordinate court. The High Courts are also courts of record.

Jurisdiction of the Supreme Court—The powers conferred on the Supreme Court by the Constitution are very wide—wider than those exercised by a similar court n any other country having a federal constitution. It has all the powers of a court of record; the law declared by it is binding on all the courts within the territory of the Indian Union. It has also the power to make, from time to time and with the approval of the President, rules for regulating its practice and procedure. The Chief Justice is empowered to appoint officers and servants of the Court and lay down their conditions of service; *e. g.*, relating to salaries, leave or pension. It is the final interpreter of the Constitution, and the custodian of the rights and liberties of the citizens. It is also the final court of civil appeal. In criminal matters it can grant special leave of appeal, and has appellate jurisdiction in certain matters. Besides appellate jurisdiction, it has original and advisory jurisdiction also.

(*a*) *The Original Jurisdiction*—The Supreme Court has *exclusive* original jurisdiction in all disputes (*i*) between the Government of India and one or more States, (*ii*) between the Government of India and one or more States on the one side and one or more States on

the other, and (iii) between the States themselves, provided such disputes involve a question of law or of fact on which the existence of a legal right depends. It, however, does not extend to the interpretation of any treaty, agreement or sanad entered into between the Government of India and the Indian States before the New Constitution came into being. In other words, the exclusive original jurisdiction extends only to disputes the parties to which are the Government of India and the States of the Union and which involve the interpretation of law. Such disputes cannot be taken to any other court. In its exclusive original jurisdiction the Supreme Court cannot entertain suits brought by private individuals against the government in India. Such cases must go in the first instance to State Courts and from there they may come to the Supreme Court provided an appeal lies. Matters like distribution or control of river waters between States can be excluded from the original jurisdiction of the Supreme Court by Parliament by law. The Supreme Court has original jurisdiction in cases involving the interpretation of the Constitution, the Indian Independence Act of 1947, laws passed by Union Parliament and by State Legislatures; but this is not exclusive. Such cases can be initiated in the High Courts also. As the ultimate guardian of the rights and liberties of the citizens the Supreme Court has been armed with the power of issuing several writs; *e. g.*, those of *Habeas Corpus*, *Mandamus*, and *Certiorari*. They have been explained previously.

The original jurisdiction is constitutionally important in so far as it enables the Court to interpret the Constitution and bring out the full implications of its various clauses. It can enlarge the bounds of the constitution by interpreting it in a liberal and constructive way as the Supreme Court of America did by formulating the doctrine of Implied Powers. On the other hand, by taking a highly legalistic and narrow view it can stand in the way of the growth of the Constitution by means of intrepretation.

(*b*) *The Appellate Jurisdiction*—This consists in the right to hear appeals against the decisions of the High Courts in the country. It is three-fold in nature : constitutional, civil and criminal. In constitutional matters an appeal lies from a High Court to the Supreme Court if the former certifies that the case involves a substantial question of law. In the absence of such a leave the Supreme Court can itself grant special leave if it is convinced that

the case does involve such an issue. In civil matters the appeal lies if the amount of claim involved in the suit is not less than Rs. 20000. In criminal matters an appeal lies in the following case : (*a*) where the High Court has, on appeal, reversed the order of acquittal of an accused and sentenced him to death; (*b*) where the High Court has withdrawn the case from any lower court subordinate to it and tried the case itself and sentenced the accused to death; and (*c*) where the High Court certifies that the case is a fit case for appeal. Parliament can pass law extending the appellate jurisdiction of the Court in criminal cases.

The Supreme Court inherits the jurisdiction of the Federal Court in all matters which are not mentioned in the Constitution. It has been given revisionary jurisdiction over all the courts. It can grant special leave of appeal against the judgment of any tribunal or court in the country, *e. g.*, Boards of Revenue, Income-tax, Appellate Courts, the Collector of Customs. The only courts from which it can entertain no appeals are those which deal with the armed forces in the country. It also acts as an election dispute court when any dispute or doubt arises about the election of the President or the Vice-President. The point on which stress was laid in the opening section may again be repeated here, *viz.*, the Supreme Court is the highest and final tribunal for the Union; there is no higher Court to which an appeal against its judgment can lie. The right of appeal to the Privy Council which existed during the British regime was abolished by the Abolition of Privy Council Jurisdiction Act of 1949.

(*c*) *The Advisory Jurisdiction*—The Constitution authorises the President to seek the opinion of the Supreme Court on any question of law or fact of public importance. This is known as the Advisory Jurisdiction of the Court. Under it questions involving interpretation of treaties or agreements entered into between the British Government and the Indian States can be referred to it. The Court is to give its opinion after such hearing as it thinks fit. Every report is to be made in accordance with the opinion expressed in open court and with the concurrence of a majority of Judges. It seems that the advisory opinion of the Court is not binding on the lower courts; it is after all opinion only.

Parliament may pass law conferring on the Supreme Court such supplementary powers as may appear necessary for enabling it to exercise the jurisdiction conferred on it by the Constitution.

Judicial Review—It was pointed out in one of the preceding paragraphs that it is one the functions of the Supreme Court to interpret and defend the Constitution and act as the guardian and protector of the fundamental rights and liberties of the citizens. It is in the performance of these vital and important functions that it exercises the power of Judicial Review. As the term is generally interpreted, Judicial Review means the power to sit in judgment over the legislative enactments of the Union and State Legislatures and the executive orders and decrees of the Union and State Governments and determine whether they are in accord with the provisions of the Constitution or not. If the Supreme Court finds that any Act passed by the Union Parliament or any State Legislature is inconsistent with some provision of the Constitution, it would refuse to give effect to it. It thereby becomes null and void, even though it may remain on the statute book. Similarly, it can declare a decree or order of any Government *ultra vires*, if it finds that it infringes the fundamental rights of the citizens, and thereupon it cannot be enforced. This power of Judicial Review is the greatest guarantee that the rights and liberties of the citizens are not put in jeopardy by any illegal or arbitrary act of the legislature or the executive. It is one of the main contributions of the U. S. A. to the art and science of Government.

The American Supreme Court possesses the power of Judicial Review to a greater extent than our Supreme Court. In deciding whether a legislative measure whose validity has been challenged by an aggreived party is constitutionally valid or not, the American Supreme Court applies two tests : (i) whether it is within the legislative competence of the Congress; and (ii) whether it satisfies the requirements of the 'due process of law'. Our Supreme Court employs the first criterion but not the second. It can and does determine whether the measure whose legality has been challenged is consistent with the provisions of the Indian Constitution or not. It has declared some of the measures passed by the Union Parliament and the State Legislatures *ultra vires*. But it cannot go into the question whether it satisfies the requirements of 'due process of law'. All it can do is to determine whether the measure has been passed in accordance with the *procedure established by law;* it cannot go beyond this question and determine whether the procedure established by law is itself right or wrong. Thus the scope of Judicial Review

is narrower in India than in America. It may be mentioned here that the British Courts and the Courts in U. S. S. R. do not enjoy this vital power. It should also be remembered that no court would take up the question of the constitutionality or unconstitutionality of any law; some one whose interests are adversely affected by any law has to move the court.

Independence of the Supreme Court—If the Supreme Court is to discharge properly its functions of safeguarding the rights and liberties of the citizens and protecting the Constitution, is must be made independent of the executive. The Constitution contains many provisions intended to give it such an independent status. Firstly, the method of appointing the Judges is devised with that end in view ; it has been made obligatory on the President to consult high judicial authorities in the matter ; their voice is decisive. Secondly, the Judges have been given security of tenure; they cannot be arbitrarily removed from office. As has been pointed out earlier, a Judge can be dismissed only on ground of proved incapacity or misbehaviour and on each House of Parliament presenting an address to the President by special majorities.. Thirdly, their salaries and allowances have been made a charge on the revenues of the Union; they cannot be varied to the disadvantage of the incumbent during his term of office. Fourthly, upon entering office, a Judge has to take an oath that he will discharge the duties of his office without fear and favour, affection or ill-will, and uphold the Constitution and the laws. Lastly, no Judge is allowed to start practice before any court of law after retirement. The Chief Justice is given the right to recruit suitable staff for the Supreme Court and frame rules regulating their conditions of service. All civil and judicial authorities in the country are bound to act in aid of the Supreme Court.

CHAPTER XVII

Government of the States

Introductory—It was pointed out in Chapter XIII that our Constitution does not confi itself to the Government of the Union

only, but also deals with the structure of government in the States. We have therefore to study its provision in regard to the latter.

We saw in an earlier chapter that the States comprising the Indian Union have been grouped into three Parts: A, B, and C. States in Part A correspond to the Governor's Provinces of the old regime; those in Part B are the big States of Kashmir, Hyderabad and Mysore, and the Unions of States formed by the integration of smaller States into big units, while the old chief Commissioner's Provinces and such small States as were neither merged in the neighbouring States nor integrated into any bigger wholes have been placed in Part C. As the system of government was not the same in the Governor's Provinces, Indian States and Chief Commissioner's Provinces during the British regime, some differences between the governments of the corresponding States were inevitable under the new set up. But they are temporary; in due course of time all the States will come to have the same system of government. In what follows we shall deal mainly with the government of States in Part A. In as much as the provisions of the Constitution applicable to Part A States apply to Part B States with some modifications and omisions, not much need be said about the latter. We may say only this much that the States in Part A and Part B have the same type of government except in regard to the designation of the Chief of the State and the manner of his appointment, and the fact that Part B States are to be under the *general control and supervision of the Union President for the first ten years after the inauguration of the Constitution.* Part C States stand on a different footing from those in Parts A and B. Their government is vested in the President of the Union who may administer their affairs through Lieutenant Governors, Chief Commissioners, and other agents. They are thus centrally administered areas ; and at the start had neither representative legislatures nor responsible goveruments. Parliament is, however, given the power to create or continue for any such State a body whether nominated or elected, or partly nominated and partly elected, to function as its legislature, and a Council of Advisers or Ministers with such powers and functions as may be specified by law. In other words, Parliament is authorised to establish by law parliamentary institutions in Part C States without necessitating an amendment of the Constitution. Incidentally, this provision illustrates the great flexibility of our Constitution. In the exercise of this power Parliament has established

popular legislatures and Council of Ministers in several Part C States, whose system of government has thus come closer to what prevails in Part A and B States. The Ministers there do not enjoy the same power and Status as in Part A States ; the Lt. Governor of Part C State is something more than a constitutional head, he is the agent of the President. Popular Legislatures have been established in Himachal Pradesh, Ajmer, Bhopal, Coorg, Delhi, and Vindhya Pradesh. Parliament can also establish by law a High Court in a Part C State.

The Organisation of State Government—The machinery of government in Part A and Part B States closely resembles that in the Union. Each State has its own executive and legislative organs. Their composition and powers are similar to those of the Union Executive and Parliament, except for the fact that some States have a unicameral legislature. The relation between the executive and the legislature in the States is similar to what prevails in the Union; at both levels we have the parliamentary system of government. Each State has its own Courts also, but they are not independent of the Supreme Court; along with it they form part of a single integrated judiciary for the whole country. We shall describe the structure, powers and functions of the State executive and the State legislature; the state judiciary has been dealt with in Chapter VIII.

The Executive—The executive authority of the State extends to all the matters concerning which it has the right to make laws; *i. e.*, to all matters enumerated in the State and Concurrent lists. The State executive has exclusive control over the items in the State List; the Government of the Union cannot interfere in their administration, except in an emergency when it can direct as to how it is to be exercised, or in order to secure compliance with instructions in certain cases*. In regard to matters in the Concurrent List the State executive has to bear in mind the legislation which might have been passed by Parliament. The Union Government can issue directions to the State Government in regard to the administration of such items.

Like the Union executive, the State executive is parliamentary. The executive authority is vested in the Governor in a Part A State, and in the Rajpramukh in a Part B State, and is exercised by him either directly or through officers subordinate to him. There is a

* See next chapter.

Council of Ministers headed by the chief Minister to aid and advise the Governor as well as the Rajpramukh in the exercise of his functions. The Council of Ministers is responsible to the State Legislative Assembly. In other words, the Governor or the Rajpramukh constitutes the nominal or titular executive, and the Council of Ministers is the real or political executive. We shall deal with the two separately.

(1) *The Governor*—The Governor who is the Head of the State is appointed by the President of the Union and holds office during his pleasure. In conformity with the tradition which had developed during the British period the Constitution lays down that the Governor shall hold office for a period of five years but may continue in office until his successor is appointed. He can resign office before the expiry of his five-year term as was done by Shri Sri Prakash and Dr. Kailash Nath Katju who were taken in the Union Cabinet. The way in which the Governors of the various States were appointed on the termination of the British rule suggested that the Governor of a State would be chosen from outside the State. But recently Dr. H. C. Mukerjee has been appointed the Governor of his home-State, Bengal, in succession to Dr. K. N. Katju. Most of the Governors have been recruited from among the public men of the country; one of them has, however, been a member of the old I. C. S. The fact that the Governor is appointed by the President without any official reference to the Government or the Legislature of the State is significant in one way; it makes him the agent of the Union Government in the State. In so far as he acts in his discretion, he is answerable to the President of the Union.

No person is eligible for appointment as Governor unless he is a citizen of India and has completed thirty-five years of age. He can neither be a member of either House of Parliament or of the Legislative Assembly or Council of States, nor can he hold any office of profit under any government. If a person is a member of any legislature or holds an office of profit, he has to resign it on appointment as Governor. The Governor receives a salary of Rs. 5,500/- a month, and some allowances whose total amount varies from State to State. He gets an official residence without payment of rent. The salary and allowances paid to a Governor cannot be reduced during his term of office.

The Rajpramukh—The Head of a Part B State is known as

Rajpramukh. The Rajpramukh is not officially appointed by the President, but only recognised as such by him. When the different unions of States were formed it was settled as to who was to become the Rajpramukh of each. The Nizam of Hyderabad, the Maharaja of Kashmir and the Maharaja of Mysore are the Rajpramukhs of the three states respectively. The Maharaja of Gwalior is the Rajpramukh of Madhya Bharat, that of Patiala of the State of PEPSU, the Maharaja of Jaipur of Rajasthan, the Jam Sahab of Nawanagar of Saurashtra, and the Maharaja of Travancore the Rajprakuh of Travancore-Cochin. It is understood that the Rajpramukhs will hold office for life and not during the pleasure of the President. They receive no salaries, but each gets an allowance determined by the President. For the rest their position in the State and powers and functions are the same as those of the Governors in Part A States.

Governor's Powers—As the chief executive of the State the Governor has been vested with powers of different kinds which can be conveniently classified as executive, legislative and financial. They are similar to those of the President of the Union, and are exercised in the same way. We would therefore refer to them briefly.

(*i*) *Executive Powers*—Since the Governor is the executive head of the State, all executive action is expressed to be taken in his name, and he is given the power to make rules regarding the way in which orders and instructions made and executed in his name are to be authenticated. He makes rules for the convenient transaction of business of the Government of the State and for the allocation of business among his Ministers. This merely signifies his right to determine how different services are to be grouped into different departments and the various departments are to be combined under the various ministers. The work of allocating the different portfolios to the different ministers belongs to the Chief Ministers. The Governor appoints the Chief Minister, and on his advice the other ministers. He also appoints the Advocate General, the Chairman and members of the State Public Service Commission. He is also consulted in the appointment of the Judges of the High Court of the State. He exercises, a general supervision over the state administration and can submit for the consideration of his Council of Ministers any matter which in his opinion requires consideration by it. He can call for information, and it is the duty

of the Chief Minister to supply all such information relating to administration and proposals for legislation. In order to enable him to exercise more effectively his authority as the chief executive of the State the Chief Minister is required by law to submit to him all the decisions of the Council of Ministers relating to administration and proposals for legislation. In short, like the British King and the President of the Indian Union he has the right to be consulted, the right to encourage and the right to warn. In some States the Governor is required to look after the welfare of the tribal people; for this purpose he can appoint a minister.

The Governor is also required to see that all orders and directions issued by the President of the Union are carried out by his Government. The President can authorise the Governor of a State to act in a contingency not provided for in the Constitution.

As the chief executive of the State the Governor exercises some powers in connection with the State Legislature. He nominates to the Legislative Council about one-sixth of its total strength. Such persons should have special knowledge of literature, art and science, and practical experience of matters like cooperative movement and social service. He can also nominate some members of the Anglo-Indian community to the Legislative Assembly if he thinks that it is not adequately represented in it. He convenes the sessions of the State Legislature and prorogues them. He can dissolve the Assembly. On the advice of the Election Commission he decides questions arising in regard to the disqualification of any member of the Legislative Council or Assembly. Such functions are sometimes described as *legislative* : they are, however, of an executive nature and are usually vested in the titular executive in a parliamentary state.

Mention may also be made of his power to grant pardons, reprieves, remissions, etc., to persons who have been convicted of an offence against any State law. This is sometimes referred to as the judicial power of the Governor. It is however an executive power. The function of the Judge is to determine whether an accused person is guilty of the offence for which he is being tried or not, and to punish or acquit him. If the guilt is proved the Judge has to punish the accused ; it is for the Head of the State as the Chief Executive to show mercy and grant pardon, remission or respite as he likes.

(*ii*) *Legislative Powers* — In the strict sense of the term the Governor has only one legislative power ; namely, the power to promulgate an ordinance during the recess of the legislature. If at any time when the State Legislature is not in session, and the Governor is satisfied that circumstances exist which render it neccessary for him to take immediate action, he may promulgate such ordinances as circumstances may require. Such an ordinance must be placed before the Legislature of the State, and shall cease to have effect at the expiry of six weeks from the date when the Legislature meets. It may be withdrawn earlier or disapproved by the Legislature before the expiry of the period of six weeks.

If the ordinance relates to a matter concerning which a bill cannot be introduced in the State Legislature without the previous sanction of the President, or the bill has to be reserved for the consideration of the President, the Governor must get instructions from the President before promulgating it.

This power has been granted to the Governor to meet emergencies. He is not an absolutely free agent in its exercise in so far as every ordinance has to be placed before the legislature. So long as it remains in force, an ordinance has the full force of law.

In the wider sense of the term the Governor has other legislative powers also. He not only summons the State legislature into session ; every session must also begin with an address from him. He may also send messages to either or both houses of the legislature on any pending bill. After a bill has been passed by the legislature it is sent to him for his assent. He may give his assent or withhold it, or return the bill to the legislature for reconsideration with a request that it may be amended along certain lines. The Assembly or the Assembly and the Council are bound to consider the request, though they are not bound to accept it. If the bill is passed again with or without amendments, the Governor cannot withhold assent. If the bill relates to the acquisition of property or derogates from the powers of the High Court, the Governor has to reserve it for consideration by the President : he cannot give assent to it himself.

(*iii*) *Financial Powers* — It is the duty of the Governor to get the annual financial statement for the next year prepared and placed before the State Legislature. No money bill can be introduced in the Assembly without the recommendation of the Governor. The State contingency fund is at the disposal of the Governor ; he

can make advances out of it to meet unforeseen expenditure. Such expenditure must be subsequently authorised by the Assembly.

The Role of the Governor — This list of the Governor's powers looks formidable indeed ; but since they are to be exercised on the advice of the Council of Ministers and not in his discretion, the office of the Governor is one of honour rather than of power.* Like the President of the Union, the Governor or the Rajpramukh of a State is a constitutional head ; the powers assigned to him are really the powers of his Council of Ministers and not his own. Nevertheless, he is not a mere figurehead : though he does not govern, he can exercise much influence on the affairs of the State. What has been said about the role of the Union President applies to the Governor of a State.

There is, however, one point which deserves consideration. Article 163 of the Constitution provides for a Council of Ministers headed by the Chief Minister to aid and advise the Governor in the execution of his functions *except in so far as he is required to exercise any of them in his discretion.* This exception does not occur in the corresponding Article which provides for a Council of Ministers for the Union. This implies that there is a sphere in which the Governor is not required by law to act on the advice of his Ministers. But the Constitution does not specifically mention the discretionary powers of any Governor except of that of Assam. This does not mean that there can be no occasion for the other Governors to act independently of their Ministers. Such an occasion is likely to arise when the Governor is required to give effect to the instructions issued by the President as to the way in which his executive authority is to be exercised in regard to a particular matter. There is another possibility also. There may be a conflict between him and his Council of Ministers when one party is in power in the Centre and a different one commands a majority in the State Legislature. Under such circumstances the position of the Governor would be one of great difficulty calling for great tact and intelligent handling of the situation.

It may also be mentioned that the Governor is the ex-officio Chancellor of the Universities in the State, and in this capacity, he can exercise a good deel of influence on the ideals of higher education. The Governor of U. P., Shri K. M. Munshi, has done a lot of useful work towards reforming the Agra, Allahabad and Lucknow Universities and also started a very useful institution, namely, the

Chancellor's camp, which is doing useful work.

It may be mentioned in passing that there is no office in the State corresponding to that of the Vice-President of the Union.

(2) *The Council of Ministers* — As in the Centre the real effective governing authority in the States is the Cabinet or the Council of Ministers. In the manner of its formation and powers and functions a State Cabinet very closely resembles the Union Cabinet. What has been said concerning the latter in a previous connection applies *mutatis mu'andis* to the former. It must be remembered that the Council of Ministers has no right to advise the Governor in matters where he is required to act in his discretion.

The Governor (or the Rajpramukh) appoints as the Chief Minister the leader of the majority party in the State Legislative Assembly, and appoints the other Ministers on his advice. No person can remain a minister for more than six months if he is not a member of the State Legislature. Though the letter of the Constitution permits the Governor to include in his Council of Ministers any person who is not a member of the legislature, in practice the choice would be confined to active parliamentarians. The Ministers hold office during the pleasure of the Governor. This should not be taken to imply that he can dismiss a minister arbitrarily and at his sweet will. Virtually, the tenure of the ministers will depend upon their ability to retain the confidence of Legislative Assembly. But the Governor has the right to remove a minister from office on grounds of corruption. The salaries of ministers are determined by the Legislature of the State.

A State Cabinet works on the portfolio system. Every Minister is the head of one or more administrative departments of the State and is responsible for their proper working. It is not his business to run the departments under his control, but to see that they are properly run and effect is given to popular wishes as expressed on the floor of the Assembly. The presence of the Minister at the head seves to make the administration of a department popular. A Minister may have one or more Parliamentary Secretaries to assist him in the discharge of his administrative duties. Parliamentary Secretaries are not members of the Council of Ministers and are not entitled to attend its meetings. They are appointed from among members of the Legislature and may in due course become Ministers. The practice of appointing Deputy

Minister has also been adopted in many States. .Bengal has 16 Deputy Ministers.

The strength of the Cabinet is not the same in all the States ; it varies not only from State to State but may also vary in the same State from time to time. West Bengal had 13 members, Orissa and Assam 7. Bombay had 11, Madras 12, and U. P. 10 Ministers sometime back. Finance, general administration, home, food, civil supplies, education, agriculture, forests, medical, health and sanitation, local self-government, public works, legislative, justice, industries and labour, police, jails, excise, registration, information, co-operation, development, are the more important departments found in every State.

The Council of Ministers or Cabinet is responsible for deciding the policies of the State. Basic principles of proposed legislation are discussed by it. Important appointments like those of administrative heads of the various departments are discussed and decided by it. Financial policies are settled and the budget is discussed before presentation to the State legislature. As has been already stated they are responsible to the Legislative Assembly and have to stand the fire of questions and cross-questions during the question hour.

Duties of the Chief Minister — The duties of the Chief Minister in a State are similar to those of the Prime Minister of the Union. He is to communicate to the Governor of the State all the decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation, to furnish such information relating to administration and proposals for legislation as the Governor may call for, and to submit for the consideration of the Council of Ministers any matter on which a minister has taken decision without consulting the Cabinet

This implies that the Chief Minister is the sole channel of communication between the Cabinet and the Governor, and that he is the leader of the Council of Ministers, as his name, Chief Minister, suggests. It also implies that the Governor has the right to be kept informed about all the affairs as regards state administration and legislative proposals. He has also the right to be consulted and the right to advise.

Advocate General — The Constitution provides for the appointment of an Advocate General for every State. He is appointed by the Governor and must possess the qualifications required for

appointment as a High Court Judge. His salary is fixed by the Governor. His chief duty is to give advice to the Government of the State on legal matters and to discharge such other functions of a legal nature as may be assigned by the Governor.

Government in Part B States — As has been pointed out earlier, the executive authority in a Part B State is vested in the Rajpramukh. He is assisted and advised in the exercise of his powers and functions by a Council of Ministers. As most of these States have had no traditions of responsible government in them. and as democratic government cannot be established all at once, the Constitution provides that for a period of ten years or such period as Parliament may determine, the Governments of these States will function under the general supervision of the Government of India inspite of the fact that they have a State legislature. They are required to comply with all the instructions which the President may issue from time to time. Failure to comply with such instructionsd would be a breach of the Constitution.

The State of Jammu and Kashmir is accorded a slightly different treatment on account of its special position. The jurisdiction of the Central Government is limited to such matters in the Union an Concurrent Lists as come within the terms of the Instrument of Accession.

The States enumerated in Part C had no democratic government to begin with ; they were administered by the President through Chief Commissioners or Lieutenant Governors appointed by him. But as has been pointed out already, Parliament has passed legislation providing for popular legislatures and Councils of Ministers in most of them. Responsible Government has been introduced in most of them, but they do not enjoy the same degree of autonomy as Part A States do. As soon as effect is given to the recommendations of the S.R.C., most of the Part C States would cease to exist ; they would be merged as parts of bigger units. Delhi, Himachal Pradesh, Manipore and Tripura alone will remain as centrally administered areas.

The Legislature — Whereas the executive organ is constituted in the same way in all the Part A States, the constitution of the legislative branch in them shows a difference in one important respect. In Bihar, Bombay, Madras, Punjab, Uttar Pradesh and West Bengal it consists of two houses and in the remaining three states of Assam, Orissa and Madhya Pradesh, of one chamber only.

In every State the Governor is an integral part of the Legislature without being a member of any house. Where the legislature is bicameral, the upper house is known as the Legislative Council, and the lower house as the Legislative Assembly. Where it is unicameral the chamber is known as the Legislative Assembly. Mysore is the only Part B State to have bicameral legislature ; all the others have the unicameral system.

When one remembers the opposition of nationalist public opinion in the country to the provision contained in the Government of India Act of 1935 for the creation of second chambers in some of the Governor's Provinces, one is likely to feel surprised at the decision of the Constituent Assembly to establish bicameral legislature in as many as six of the Part A States. And, if it was deemed worth while to constitute the legislature in the States on the bicameral basis, why should an exception have been made in the case of some States ? A uniform practice would have been far better.

The question whether or not to have the second chamber in the State Legislatures was discussed by the Provincial Constitution Committee. It decided that it should be settled by each Province for itself. Effect was given to the recommendation of the Provincial Constitution Committee by allowing the representatives of each Province to meet and come to a decision on the question. The representatives of Bihar, Bombay, Madras, Punjab, the U. P. and West Bengal decided to have the second chamber, while those of Assam, Orissa and Madhya Pradesh resolved otherwise. This accounts for the divergence of practice in the different States.

Those who decided in favour of the second chamber appear to have been influenced by the following considerations :

A large number of civilised states in the world have written bicameralism in their constitutions. This demonstrates the general utility of second chambers. They are useful in several ways. Firstly, they prevent hasty and ill-considered legislation. There is the possibility that a single chamber may be swayed by emotion and passion ; it may act in a rash and one-sided manner. If there is a second chamber, the measures passed by the first would be scrutinised by it and their defects removed. There is a good deal of truth in the statement of Maine that a second chamber provides not a rival infallibility but an additional security. Secondly, the existence of a second chamber means a longer time required for the passing of

legislative measures. During the period when a bill passed by the lower house is being considered by the second chamber, public opinion gets additional and sufficient time to express itself for or against it. This is most valuable in the case of controversial measures. Thirdly, second chambers are useful for the initiation of bills of a non-controversial nature. Lastly, the institution provides a good method by which the State can secure the services of able, experienced and distinguished persons who do not like to undergo the worry and trouble of contesting elections in the legislature. They can be nominated to the second chamber. Minorities, economic groups and professions can be more suitably represented in the upper chamber than in the lower. The way in which the Legislative Councils in the States are to be constituted has been devised to secure the election of able and competent persons who can make useful and valuable contribution to their debates and discussions.

The force of the objection usually urged against upper chambers, namely, that they are undemocratic and are likely to act as a brake on democracy, has been greatly minimised by giving the Legislative Councils limited powers in our Constitution. As will be shown later on, they will play a very subordinate role in law-making and have no power in financial matters. They cannot block legislation in which the lower house may be keenly interested. Finally, they have been introduced as an experimental measure. If the lower chamber in a State having a bicameral legislature does not want to have it, it can pass a resolution to that effect by an absolute majority of its total strength and a two-thirds majority of the members present and voting, and Parliament will pass a law abolishing the Legislative Council in that State. If the experiment proves successful, States which do not have a Legislative Council can get it in the same way. It thus rests with the Legislative Assembly of a State to have or not to have the upper chamber. The provision is innocuous.

The Legislative Assembly—Like the House of the People the Legislative Assembly of every State is to be composed of members elected by the citizens on the basis of adult suffrage without any reservation of seats for any community or interest except the Scheduled Castes and the Scheduled Tribes for a period of ten years only. Seats have been reserved for the autonomous tribal districts of Assam in the Legislative Assembly of the State permanently. Wherever it exists, reservation of seats is on the population basis.

If the Governor of a State thinks that the Anglo-Indian community is not adequately represented in the Assembly, he can nominate such number of the members of the community as he thinks proper. Most of the objectionable features of the Provincial Assemblies as constituted under the Act of 1935 hav been done away with. No Assembly can contain more than 500 and less than 60 members. The actual strength in every case is to be determined on the basis of the population of the State as ascertained in the last preceding census and at the ratio of one representative for every 75,000 of the population. This ratio is not to apply in the case of the autonomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, because they have scanty population. While demarcating territorial constituencies and fixing the number of representatives for each one of them, the ratio between the latter and the population of the constituency as determined in the last preceding census shall be the same throughout the State. Any citizen of India can stand for the Legislative Assembly of a State if he is above 25 years of age and possesses such other qualifications as may be laid down by Parliament, provided he is not disqualified on grounds of insanity, crime, corrupt practices, insolvency, holding an office of profit or under any law made by Parliament. So far Parliament has laid down no particular qualifications, except residence in the State for a definite period.

The Assembly is to be constituted for a five-year term. It can, however, be dissolved earlier by the Governor. But its life cannot be prolonged except in an emergency, and even then for not more than one year at a time. When its term has been so extended, it must be dissolved within six months after the emergency has ceased to exist. It is the lower and popular chamber, and the Council of Ministers in the State is responsible to it.

The total strength of the Legislative Assembly in each State and the number of seats reserved for the Scheduled Castes and Scheduled Tribes as determined by Parliament are as follows :

		Seats Reserved for	
Part A States	*Total Seats*	*Schded. Castes*	*Schded. Tribes*
Assam	108	5	9
Bihar	330	44	35
Bombay	315	27	29
Madhya Pradesh	232	32	23

		Seats Reserved for	
Part B States	*Total Seats*	*Schded. Castes*	*Schded. Trtbes*
Madras	375	62	4
Orissa	140	21	28
Punjab	126	21	—
U. P.	430	83	—
West Bengal	238	40	12
Total	2294	335	140

With the separation of Andhra from Madras the strength of Madras Assembly was reduced to 230. Andhra had 140 members.

Part B States			
Hyderabad	175	31	2
Jammu & Kashmir	—	—	—
Madhya Bharat	99	17	12
Mysore	99	19	—
PEPSU	60	10	—
Rajasthan	160	16	5
Saurashtra	60	4	1
Travancore-Cochin	108	11	—
Total	761	108	20
Part C States			
Ajmer	30	6	—
Bhopal	30	5	2
Coorg	24	3	3
Delhi	48	6	—
Himachal Pradesh	36	8	—
Vindhya Pradesh	60	6	6
Total	228	34	11

There are no Legislative Assemblies in Bilaspur, Kutch, Manipur and Tripura*. The three last named States will elect 30 members each for the electoral College for the election of the President.

For the election of members of the Legislative Assembly each State is divided into a number of territorial constituencies. Most of them return one member each; but where a seat has been reserved

* *The Hand-book for Congressmen*, however, says that Kutch, Manipur and Tripura have legislatures of 30 members each.

for the Scheduled Castes or Tribes, the constituency becomes a double-membered one. In U. P. out of 347 constituencies 264 were single and 83 double membered. Each voter has two votes, one for the general seat and the other for the seat reserved for the Scheduled Castes representative.

The Legislative Council—As has been stated earlier the upper chamber of the State Legislature where it exists is known as the Legislative Council. The Constitution lays down some general rules for the composition of these bodies. It says that a Legislative Council must not have less than forty and more than one-fourth of the total membership of the Legislative Assembly of the State It is to be indirectly elected, and its personnel is highly diverse. Nearly a third of its members are to be elected by electoral colleges consisting of members of municipal and district boards and such other local bodies as Parliament may specify. About one-twelfth are to be elected by graduates of at least three years' standing, and another one-twelfth by the teachers who have served in an educational institution not lower than a secondary school in the State for at least three years. One-third are to be elected by the members of the Legislative Assembly from among non-members. The remaining one-sixth are to be nominated by the Governor or the Rajpramukh to represent literature, art, co-operative movement and social service. Parliament has been given the power to change this composition at any time by law. By the Representation of the Peoples Act of 1950 Parliament has determined the composition of Legislative Councils in the various States as follows :

Name of the State	*Total Strength*	*Elected by members of Local Bodies*	*Elected by Graduates*	*Elected by Teachers*	*Elected by the Legislative Assembly*	*Nominated by the Governor*
Part A States						
Bihar	72	24	6	6	24	12
Bombay	72	24	6	6	24	12
Madras*	51	14	6	4	18	9
Punjab	40	13	3	3	13	8
Uttar Pradesh	72	24	6	6	24	12
West Bengal	51	17	4	4	17	9
Part B State						
Mysore	40	13	3	3	13	8

* Prior to the creation of Andhra as a separate body the Legislative Council of Madras had the same strength as that of Bihar, Bombay and U. P.

The qualifications for membership of a Legislative Council are similar to those laid down for membership of the Council of States. Any citizen of India who is not less than 30 years of age and is not disqualified on the ground of holding an office of profit under any Government except that of Minister, or Deputy Minister or Parliamentary Secretary, or on that of insanity, bankruptcy, or corrupt or illegal practice, or under any law made by the legislature of the State, is qualified to stand for election. He should also possess such positive qualifications as may be laid down by parliament by law. But no such qualifications have been prescribed so far. No person can be a member of both the Houses in a State, or of Parliament and a State Legislature, at one and the same time. If a member is absent from the meetings of the House for a period of sixty days or more without its permission, his seat can be declared vacant.

The Legislative Council is a permanent body. It is never completely dissolved. One-third of its members retire every two years. This means that its members are elected for a six-year term.

Sessions of State Legislature, etc. — The constitutional provisions governing the sessions of the State legislature, its office bearers, the right of the Governor to address the Houses and send messages to them are similar to those already explained in connection with Parliament. The House or Houses of the State Legislature must meet at least twice a year, and not more than six months can elapse between the last sitting of the first and the first sitting of the second session. The Governor summons the House or Houses to meet at such time and place as he thinks fit, prorogues it or them, and can dissolve the Assembly even before the expiry of its full five-year term. The Governor is required to address the Legislature at the commencement of every session and may address it at any other time also and require the presence of the members to hear him. He has the right to send messages to the Assembly and to the Council also where it exists with respect to a pending bill and the House or the Houses are required to pay speedy consideration to it. Every Minister and the Advocate General have the right to speak in and take part in the proceedings of any House whether they are members of it or not, but shall have no right to vote unless they are its members.

The Legislative Assembly shall select from among its members one Speaker to preside over its meetings and perform such other

duties as the presiding officer of a legislative chamber generally performs, and a Deputy Speaker to officiate for the Speaker in his absence. The Council, where it exists, shall similarly choose its Chairman and Deputy Chairman. All these officers shall cease to hold office when they cease to be members of the House concerned, and can resign their office at will. The House can also remove them from office. When any proposal for their removal is under discussion the official concerned shall not preside but shall have the right to speak in and take part in the debate in the House. A resolution seeking to remove the Speaker, etc., requires fourteen days' notice. The Speaker, the Deputy Speaker, the Chairman and the Deputy Chairman are to get such salaries as may be fixed by the Legislature of the State by law. The powers and functions of the Speaker and the importance of the office have been stated on previous pages; they need not be repeated here.

All questions, except those specified in the Constitution, are to be determined by a majority of votes of the members present and voting. This rule applies to the joint sittings of the two houses. The Speaker or Chairman shall not vote in the first instance; he has a casting vote in case of a tie. The quorum shall be ten members or one-tenth of the total number of members of a house whichever is greater. No discussion can take place in the Legislature of a State with respect to the conduct of any judge of the High Court or the Supreme Court in the discharge of his duties. The work of the Legislature is transacted in the language of the State, or in Hindi or English.

All members of the Legislature have to take an oath of allegiance to the Constitution of India and a faithful discharge of their duties during their tenure before taking their seats. They are entitled to freedom to speech and all other privileges enjoyed by the members of Parliament, and are to receive such salaries and allowances as may be determined by the Legislature of the State by law. A member can resign his seat by writing under his hand to the Speaker or the Chairman as the case may be. His seat will be declared vacant, if he is absent without permission from all meetings of the House for a period of sixty days, or is appointed to some office of profit under any Government, or if he accepts the citizenship of some other State or becomes insane or insolvent.

Legislative Procedure — The process of law-making in a

State Legislature is the same as in the Union Parliament, and may therefore be described in brief.

Each House has the right to frame rules for the regulation of its procedure and conduct of business. Until new rules are framed, the old rules and procedure remain in force with such amendments as may be made. The business of the legislature is to be conducted in the official language of the State or in Hindi or English. In our State it is done in Hindi.

A bill other than a Money Bill may originate in either House of the State Legislature where it is bicameral in nature. In practice all important bills originate in the Legislative Assembly ; it is only non-controversial measures which are first introduced in the Legislative Council. There is no distinction between private and public bills ; the same procedure is adopted in regard to all non-money bills introduced in the legislature. Bills introduced by the Government stand a much greater chance of being placed on the statute book than those sponsored by private members ; most of the time of the legislature is taken by government bills. Subject to the provisions relating to money bills and restrictions on the powers of the Legislative Council as described in Article 179, a bill cannot be presented to the Governor for his assent unless it has been passed by both the Houses in the same form. This may seem to confer equality of legislative power on the Legislative Councils where they exist ; such, however, is not the case. Like the upper chamber of the Union Parliament, the upper chamber of the State Legislature also has been deliberately made weak ; nay, it is even weaker ; it cannot place insuperable obstacles in the way of the Legislative Assembly. The Legislative Council has been given a subordinate place in law-making. The restrictions on its powers are described below.

Every member who wishes to introduce a bill has first to obtain permission of the House which is generally granted. He next introduces the bill by reading its title and explaining its main provisions and the need for it. This constitutes the first reading. If the bill happens to be important or highly controversial, it is referred to a select committee for examination and report. In some cases before being referred to a select committee it may be circulated for eliciting public opinion ; *e. g.*, the bill for the abolition of Zamindari. If it is non-controversial, reference to the select committee is dropped, and the bill goes up straight for its second reading. This is the

time for the members to discuss it thoroughly clause by clause and propose amendments. After the second reading is over and the House has accepted the bill it is taken up for the third reading when there is a general discussion on it. No amendments except those of a formal or verbal nature are permitted at this stage. After it has been passed by the Assembly, it is sent to the Legislative Council where it exists. It goes through the same stages there, namely, first reading, reference to a select committee if needed, second reading and third reading. The Council may accept it without amendments in which case it is sent to the Governor for his assent ; or it may amend or reject it. If it is passed with amendments to which the Assembly does not agree, or is rejected by it, or if the Council fails to pass it within three months from the date on which it was laid before it, the Legislative Assembly considers the bill again. If it passes it a second time with or without the amendments suggested by the Council in the same or in a subsequent session, it is transmitted to the Council a second time. If even now the Council rejects it or passes it with amendments which are not acceptable to the Assembly or takes no action on it within one month, it will be deemed to have been passed by both the Houses in the form in which it was finally passed by the Legislative Assembly, and shall be presented to the Governor for assent on receiving which it shall become law. Even a joint ses ion is not provided for the settlement of differences between the two houses. In other words, the last word on a non-money bill lies with the Assembly ; it is not bound to accept amendments suggested by the Council. There is no pretence of equality of status between the two chambers. The Council cannot block any measure on which the Assembly has set its heart ; it can delay its passage by four months at the most. Its role in law-making is thus not vital or significant.

Procedure in regard to Money Bills — A bill is said to be a Money Bill if it deals with the imposition, abolition, remission or regulation of a tax, the regulation of borrowing, payment of moneys into or their withdrawal from the Consolidated Fund, etc. If any question arises whether a given bill is a money bill or not, the decision of the Speaker of the Legislative Assembly shall be final. Such a bill can originate only in the Legislative Assembly. After having been passed by it, it is transmitted to the Council which must return it to the Assembly within a period of 14 days from its receipt

with its recommendations. The Assembly may or may not accept these recommendations. If it accepts any of these recommendations, the bill is deemed to have been passed by both the Houses with such amendments. If the amendments are rejected by the Assembly, the bill will be considered to have been passed by both the Houses in the form in which it was passed by the Assembly, and it shall be presented to the Governor for assent. The Council has thus no power in financial matters ; it can simply discuss them but has no power to alter, amend or reject the decisions of the Assembly. As stated above its power to amend non-money bills passed by the Assembly is also limited.

Assent to Bills — All bills passed by the Legislature of a State in accordance with the procedure outlined above are presented to the Governor for assent. The Governor may assent to a bill, refuse to assent to it, or reserve it for the consideration of the President. If it is a non-money bill, he can return it to the Legislature with a message for its reconsideration with a view to its amendment in specified respects. The House or the Houses are bound to consider the amendments proposed by the Governor in his message but are not bound to accept them. If they pass the bill with or without the amendments, it shall be presented to the Governor and he shall not refuse his assent. If the Governor thinks that the bill, if passed, would derogate from the powers of the High Court, or if it relates to the acquisition of propertp, he can reserve it for the consideration of the President who may give or withhold his assent. If a bill is a non-money bill and is reserved for the consideration of the President, he may direct the Governor to return it to the Legislature for reconsideration and amendment in specified respects. The House or the Houses shall consider such proposals, and if it is again passed with or whithout amendments, it shall be presented again for his consideration.

The British King is vested with the power to refuse assent to a bill passed by the British Parliament. But he does not exercise it ; it is not compatible with the principles of cabinet government. How far would the Governor of a State be able to make any real use of his power of withholding assent and returning bills to the Legislature for reconsideration remains to be seen. We can say only this much that the exercise of such powers by the Governor would be a very rare occurrence, to be used only in an emergency. Its use in normal

times is likely to create political deadloks. The exercise of such powers by the nominal executive is not compatible with the principles of parliamentary government. Perhaps the provision has been inserted in our Constitution to enable the ministers to make use of the prerogative powers of the Governor and the President, if and when necessity arises.

Procedure in Financial Matters— In fundamentals the procedure of financial legislation is the same in the States as in the Centre. It is the duty of the Governor to get ready the Annual Financial Statement containing an account of the estimated income and expenditure of the State for the coming financial year, and cause it to be placed before the State Assembly and the Council, if there is one. The estimates of expenditure contained in the Statement should show clearly (*i*) the sums required to meet expenditure which is a charge upon the Consolidated Fund of the State, and (*ii*) sums required to meet other expenditure proposed to be made from the Consolidated Fund subject to the sanction of the Assembly. The distinction between expenditure charged on the Fund and not so charged is important ; it has been explained already and so nothing need by added here. We shall enumerate the items of expenditure charged by the Constitution on the revenues of a State. They are as follows : (*a*) The emoluments and allowances of the Governor and other expenditure relating to his office ; (*b*) The salaries and allowances of the Speaker, the Deputy Speaker of the Assembly and of the Chairman and the Deputy Chairman of the Council ; (*c*) Debt charges of the State ; (*d*) Salaries and allowances of the judges of the High Court ; (*e*) Sums required to satisfy any judgment, decree or award of any court or tribunal ; and (*f*) any other expenditure declared to be charged by Parliament or the Constitution.

Expenditure charged on the revenues of the State is open to discussion in the Legislature but is not votable. The other expenditure is votable. Estimates falling under votable items are presented before the Assembly in the shape of demands for grants. The Assembly after discussion may give its assent to a grant, refuse to assent to it or reduce it. It cannot, however, increase or transfer it to some other head. No demand, for a grant can be made except on the recommendation of the Governor. The implication is that private members of the legislature are not authorised to

propose new expenditure ; this right belongs only to the Government.

On the basis of the grants made by the Assembly an Appropriation Bill is prepared and introduced in the Legislative Assembly. No amendments can be made to this Bill in any House of the State Legislature. This Bill is the final authority in accordance with which moneys can be withdrawn from the Consolidated Fund of the State. If the amount granted for any particular service in the Appropriation Bill falls short of the requirements of the service for any reason, the Governor can recommend that supplementary, additional or excess grants be made in a Supplementary Financial Statement.

As in the Centre, the Legislative Assembly of a State can pass Votes on Account, Votes of Credit and make exceptional grants. A Vote on Account is a grant made by Legislature in advance of the completion of the financial procedure in respect of an estimated expenditure for a part of a financial year. By passing Votes on Account the Legislature finds it possible to prolong the discussion on the demands for grants after the year has begun. Under the old system the budget for the new year had to be passed before its commencement. This need not be done under the new procedure A Vote on Credit is a grant made for meeting an unexpected demand upon the revenues of the State which cannot be stated with the details ordinarily found in an annual statement. An exceptional grant is a grant which forms no part of the current service of any financial year.

Finance Bill — The Bill setting out the ways and means by which the revenues necessary for meeting the expenditure of the State during the next financial year are to be raised is known as the Finance Bill. It is framed on the basis of the decisions made by the Assembly in regard to the taxation and borrowing proposals placed before it on behalf of the Government. As has been explained earlier, it is the Assembly which has the final say in the matter ; the Council has no power to alter or amend the proposals.

It would appear from the foregoing account that the Legislative Assembly in every State has been given control over the State finances ; the Council has no power in this sphere. All it can do is to make its recommendations to the Assembly which may or may not accept them.

In view of the very subordinate role assigned to the Legislative Councils in law-making and their lack of control over finances, and the

provision that the Legislative Assembly of a State may pass a resolution by an absolute majority of its total strength and a two-thirds majority of the members present and voting recommending the abolition of the Legislative Council where it exists, the utility of having created the upper chamber in some of the States may be questioned. The only thing that can be urged in defence of the step is that it is experimental in nature. If experience of the working of the upper chambers in different states reveals that they have rendered no useful service in proportion to their cost, they may be abolished.

Limitations on the Powers of State Legislatures — According to the strict theory of federalism a State legislature is as sovereign or supreme in its allotted sphere as the federal legislature is in its domain. But such is not the case in our constitution ; there are some limitations upon its legislative competence. In the first place, bills passed by it have to be reserved for the consideration of the President if they relate to the acquisition of property, or are repugnant to laws made by Parliament in regard to concurrent matters, or provide for the imposition of taxes on the sale or purchase of commodities declared by Parliament to be essential for the life of the community. Secondly, certain bills, *e. g.*, those seeking to impose restrictions on the freedom of trade or commerce in the State or on intercourse with other States require the previous sanction of the President. Thirdly, Parliament acquires the right to legislate for the States in regard to subjects enumerated in the State List when a Proclamation declaring an Emergency is in force. But these restrictions pale into insignificance as compared to those imposed upon the legislatures in the Provinces under the Government of India Act of 1935.

The Judiciary — Every State has a system of law courts for the dispensation of justice, consisting of the High Court at the top and subordinate courts of different types and rank at the bottom. The Constitution contemplates a High Court in every Part A and Part B State. If a High Court exercised jurisdiction in relation to any Province immediately before the inauguration of the Constitution, that High Court is deemed to be the High Court for the corresponding State.

The organisation of the High Courts and the subordinate Courts under the new Constitution is the same as under the

Government of India Act of 1935 which has been described at length inCha pter VIII, to which reference may be made. It need not be reproduced here. We shall draw attention to some vital changes made by the Constitution.

The first point to be noted is that the jurisdiction of the High Courts has been enlarged in two directions. Under the Government of India Act of 1935 the High Courts had no original jurisdiction in matters pertaining to revenue or its collection. This restriction has been removed. Article 225 says that the restriction in regard to the exercise of original jurisdiction with respect to matters concerning revenue or acts done in the collection thereof shall not apply after the commencement of the Constitution. Secondly, all the High Courts have been empowered to issue the writs of *habeas corpus, mandamus, quo warranto, certiorari* and *prohibition.* Previously only the High Courts of Calcutta, Madras and Bombay could exercise this right and that only within the limits of the Presidency towns. The other High Courts could issue the writ of *habeas corpus* only. The extension of this right to cover all sorts of writs was deemed necessary for the protection of the fundamental rights guaranteed by the Constitution to the citizens.

Formerly non-Indians were frequently appointed as High Court Judges. Under the New Constitution only Indian citizens are qualified to be appointed to the high office.

Lastly, the Constitution contemplates the separation of the executive from the judiciary. As the first step in this direction it lays down that the appointment, posting, etc., of district judges is to be made by the Governor in consultation with the High Court. Under the Government of India Act of 1935 it was done by the Governor acting in his individual judgment. Recruitment of persons other than district judges is to be made by the Governor after consultation with the State Public Service Commission and the High Court. The Governor has been empowered to extend the provisions of the Constitution relating to the appointment, posting, and promotion of District Judges to any class or classes of magistrates in the State. When this is done, the separation of the executive from the judiciary will be complete. Steps in the direction have been taken by some States.

CHAPTER XVIII

Relation between the Union and the States

Introductory— After having completed our survey of the constitution, powers and functions of the various organs of the Central and the State Governments we turn to the important question of the relations between the Union and the States in our Constitution. It would be recalled that while describing the salient features of the Constitution in Chapter XIII we pointed out that it gave us a quasi-federal and not a cent per cent federal polity. It is quasi-federal because it departs from the vital federal principle of the *autonomy* of the units in several ways. The States of the Indian Union do not enjoy the same measure of independence of the central government as the States of the American Union or the Swiss Cantons do ; the occasions on which the Government of the Union may lawfully invade the legislative and administrative autonomy of the States are more numerous in our Constitution than in any other federal constitution. Indeed, as was pointed out in Chapter XIII, in an emergency our Republic functions as a unitary and not as a federal state. In this chapter we propose to examine the provisions of the Constitution in so far as they bear on the relation between the Union and the States. We shall first mention some general considerations which seem to be incompatible with the supremacy of the units in the sphere allotted to them, and next describe the occasions on which it becomes lawful for the Union to legislate for the States on subjects included in the State Legislative List. Next, we shall examine the administrative relations, and last of all, the financial relations between the Union and the States.

1. General Relation between the Union and the States:— An examination of the scheme of distribution of powers between the Government of the Union and the Governments of the States as provided for in our Constitution would show that the 'Centre dominates the scene like a colossus with its formidable list of 97 exclusive powers, to which must be added its concurrent but paramount powers, as well as the residual powers of legislation, which, too, have been vested in it.'* It is an incontestable fact that there is a greater

* Amar Nandi : *The Constitution of India*, page 197.

degree of centralisation of power in our polity than in any other federation in the world. But this fact by itself would only show that the states in our Union have less power than the units in other federations, but not that in the exclusive sphere assigned to them their autonomy is endangered by the powers assigned to the Centre which is the point we want to prove. The following considerations point in that direction :

(*i*) Unlike the States of the United States of America and the Swiss Cantons, the States of the Indian Union have no constituent authority ; they cannot frame, alter or amend their constitutions. They have no right to propose constitutional amendments the initiative for which is lodged exclusively in the Union Parliament.

(*ii*) The Constitution contains no guarantee of the integrity and security of the territories of any State., On the contrary, it empowers Parliament to separate by law territory from any State and unite it with the territories of another State. There is nothing to prevent it from even abolishing a State and distributing its whole territory among other States. In the new scheme of States reorganisation the old State of Hyderabad would cease to exist. Old Bombay Presidency also would disappear. Pepsu would form part of the Punjab; and Madhya Bharat, Bhopal and parts of Madhya Pradesh would constitute a new State. The procedure laid down by the Constitution in Article 3 for the formation of new States and alteration of the areas and boundaries of existing States may have serious repurcussions upon their autonomy. 'States with the sword of Damocles perpetually hanging over their heads cannot be expected to assert themselves or stick out for their rights *vis-a-vis* the Union Government with any degree of confidence.'*

(*iii*) The Governor of a Part A State is appointed by the President without formal reference to its people, legislature or the Council of Ministers. This makes the Governor an agent of the Union Government. This fact acquires much significance when it is remembered that he is to exercise his functions with the aid and advise of his Council of Ministers *except in so far as he is required to exercise them in his discretion.* As has been shown in the section dealing with the powers of the Governor, he is presumably required to disregard the advice of his Ministers when acting under

* M. P. Sharma : *op. ct.* page 74.

instructions from the President. This provision seriously detracts from the value of the autonomy of the States, even though the opportunities for the exercise of this power may be few and far between.

2. **Legislative Relations.**—Parliament has been vested with the exclusive power of making laws for the whole of India or any part thereof in respect of matters enumerated in the Union List. The Legislature of every State has exclusive power to make laws for the State or any part thereof on subjects enumerated in the State List. The Union Parliament cannot make laws for Part A and Part B States on subjects included in the State List, and no State Legislature can legislate on a subject enumerated in the Union List. The Union Parliament and the State Legislatures have concurrent powers to make laws on subjects enumerated in the Concurrent list.

But whereas under no conditions a State Legislature is entitled to encroach upon the sphere of Parliament and legislate on a subject included in the Union List, the Constitution specifically mentions several occasions when it becomes lawful for Parliament to invade the jurisdiction of the State Legislatures and make laws on any subject enumerated in the State List for the whole of India or any part thereof. This is a great intrusion into the autonomy of the States and constitutes a departure from the federal principle that the States should be independent of the national government in the sphere allotted to them. The following are the occasions on which Parliament is empowered to legislate on a State subject :

(*i*) Article 249 empowers Parliament to legislate on a State subject if the Council of States passes a resolution by a two-thirds majority of members present and voting, declaring that subject to be of national importance. No similar provision exists in the constitution of any other federation.

(*ii*) Article 250 empowers Parliament to legislate on any matter in the State List if a Proclamation of Emergency is in operation. It has been shown on a previous page that the effect of the operation of an Emergency Proclamation is to transform the federal structure of our government into unitary. All the federal restrictions on the legislative authority of the Union Parliament are removed during an emergency and it acquires the right to legislate on all the subjects in the State List. There is no provision of a similar nature in any other federal constitution. It may, however, be pointed out that

during the World War II the defence power of the federal government in the U. S. A., Canada, and Australia was interpreted in such a way by the courts as to make the government function almost like a unitary government.

(*iii*) Article 252 confers upon Parliament the power to legislate or a State subject if two or more States request it to make a single law for them in respect of it.

(*iv*) Article 254 enables Parliament to legislate on any subject coming within the competence of the State Legislatures if such legislation by it is deemed necessary for the implementation of treaties and agreements concluded with foreign states, and of international conventions. The fact that federal governments sometimes find themselves handicapped in the conduct of foreign relations by the intransigent attitude of the governments of the units led the framers of our constitution to insert this provision in it.

(*v*) Article 254 provides that if the provisions of a law made by a State Legislature on a subject enumerated in the Concurrent List is repugnant to the provisions of any law made in regard to it by Parliament, the former would be void to the extent of its repugnancy with the latter. In other words, in the event of conflict between a Union and a State Act on a matter in the Concurrent List the former supersedes the latter.

(*vi*) Article 356 provides that in case of failure of constitutional machinery in a State the President may declare that the powers of its legislature shall be exercised by or under the authority of Parliament.

These provisions of the Constitution are sufficient to show that, though normally the Union Parliament may not intrude upon the Legislative competence of a State Legislature, it may lawfully legislate on a State subject in an emergency or when national interests require it to do so. They take away a good deal from the federal principle of the autonomy and independence of the units.

(*vii*) Finally, reference may be made to the fact that in some cases bills passed by the legislature of a State have to be reserved by the Governor for the consideration of the President ; *e. g.*, if a bill relates to the acquisition of property or derogates from the powers of the High Court,* the Governor has to reserve it for the considera-

* See above, page 561.

tion of the President who may either assent to it or withhold it or direct the Governor to retnrn it to the House or Houses of the State Legislature with his proposals for amending it. The House or Houses are bound to consider the proposals of the President but are not bound to accept them. If it is passed again by the Legislature with or without amendments, it shall be presented to the President again for his consideration.

3. **Administrative Relations.**— Our Constitution defines and delimits the administrative jurisdicition of the Union and the States and excludes the jurisdiction of each from that of the other. The administrative jurisdiction of the Union Government extends to the subjects enumerated in the Union List and that of the States to the tems in the State and Concurrent Lists. The Union Legislature can make laws on subjects mentioned in the Concurrent List, but their administration is left to the States. But as the Government of the Union has the residuary responsibility for the peace and safety of the whole of India, and also because it legislates for the States in regard to items included in the Union List, 'there is a necessity for an effective administrative nexus between the Union and its constituent Units.'* There are a few provisions in the constitution which have the effect of subjecting the executive authority of the States to the control of the Union.

(*i*) Article 256 of the Constitution provides that the executive authority of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply to the States, and that the executive power of the Union extends to the giving of such directions to a State as may appear to the Government of India necessary for that purpose. This means that it is the duty of a State Government to give effect within its territories to every Act of Parliament, and the Government of India can direct a State as to how this duty is to be discharged.

(*ii*) The power of the Central Government *vis-a-vis* the State Governments goes much further than the above. Article 257 vests in the President the right to give such instructions to the Government of a State as may be necessary.

(*a*) for ensuring that the executive authority of the latter shall be so exercised as not to impede or prejudice the executive power of the Union ;

* Johsi : ***The Constitution of India*, page 259.**

(*b*) for the construction and maintenance of the means of communications declared to be of national or military importance ; and

(*c*) for the measures to be taken for the protection of railways and national waterways within the State.

If the Government of a State fails to comply with or give effect to the directions issued by the Government of India in regard to any of the above matters or under any other provision of the Constitution, the President can declare that the Government of the State cannot be carried on in accordance with the provisions of the Constitution and apply the provisions meant to be used in case of failure of constitutional machinery ; *i. e.*, he can assume to himself all the functions of the Government o the State and declare that all the powers of the Legislature of the State shall be exercised by or under the authority of Parliament.

(*iii*) Article 258 empowers the President to constitute the States as the agents of the Government of the Union with their consent, and entrust conditionally or unconditionally to them or to their officers functions in relation to any matter to which the executive power of the Union extends.

(*iv*) While a Proclamation of Emergency is in operation, the autonomy of the States is suspended and the Government of the country functions as unitary. The Government of the Union can give directions to the Governments of the States as to the manner in which their executive authority is to be exercised in all matters. The effects of the failure of constitutional machinery in a State are similar.

(*v*) It may also be pointed out that it is the duty of the Government of the Union to protect the States against external aggresssion or internal disturbance and to secure that government is carried on according to the provisions of the Constitution. These provisions clearly show the extent to which the Government of the Union is in a position to invade the autonomy of the States.

In the end reference may be made to the fact that the Constitution empowers Parliament to provide for the adjudication of disputes among States in regard to the use or distribution of control of river waters or valleys. The President can set up an Inter-State Council to enquire into and advise upon disputes among States, to investigate and discuss subjects of common interests to them, and

make recommendations for the coordination of policy and action thereon. The welfare of the scheduled tribes and backward classes is a special care of the President, and he can appoint a commission to investigate their condition and make suggestions for their improvement.

What has been said above about the legislative and administrative relations between the Union and the States should not be taken to mean either that Parliament would be generally or frequently legislating on subjects included in the State List or that the President would be daily issuing directions as to the way in which the executive authority of the States is to be exercised. These provisions are meant to be used sparingly and in emergencies. They only indicate that the national government *can* legitimately exercise control over the government of the units if and when the necessity for such control arises. Normally the States would enjoy full autonomy in legislation and also in administration. But administrative autonomy presupposes financial autonomy ; no state can be free from external control unless it has its own sources of revenue. It is, therefore, the effort of every federal constitution to separate national from state finance and assign separate sources of revenue to the units and to the central government and leave each government free to exploit them and spend its revenues as it likes. Let us see how our Constitution has tried to solve the problem of separating the national from state finance and giving financial autonomy of the States.

4. **Financial Relations** — The problem of properly adjusting the financial relations between the centre and the units in a federation is much more difficult than the problem of delimiting the legislative and administrative jurisdictions of the two parties. The ideal solution of the problem would be to allocate some heads of revenue to the centre and others to the units in such a way that each party will not only be independent of the other in collecting revenues from the sources assigned to it, but shall also get sufficient funds from those sources to meet its requirements. In other words, the idea is that each government should have resources of its own for supplying its wants. There should be no joint heads of revenue and no subventions from the centre to the units or contributions from the units to the centre. But such a happy state of affairs is very difficult of realisation ; the economic and financial conditions of almost every country necessitate a departure from this principle to a smaller or larger

extent. In our country we have neither a clear-cut and complete division of sources of income between the Union and the States, nor complete financial independence on the part of the States. We have heads of revenue like the income-Tax the proceeds from which are divided between the Union and the States, and the Union Government grants subsidies to some States. This state of affairs is a legacy from the British regime.

The Expert Committee on Financial Provisions which was asked to examine and report on the financial relations between the Union and the States was of the opinion that 'in view of the unstable conditions prevailing in 1948 the existing distribution of the sources of revenue under the Government of India Act, 1935, should continue for at least five years, after which a Finance Commission may review the position in the light of the statistical information which may be collected, compiled, and maintained for the purpose.'* The Drafting Committee therefore took over the scheme of distribution of revenues from the Act of 1935, and provided for the appointment of a Finance Commission within two years of the commencement of the Constitution to make recommendations regarding the distribution of the net-proceeds of taxes which are to be divided between the Union and the States, the principles which are to govern the grants-in-aid of the revenues of the states out of the Consolidated Fund of India, etc.

The decision to appoint the Finance Commission was wise and politic ; to have made the provisions of the Constitution in regard to the financial relations between the Union and the States final would have been most unwise.

The Constitution does not deal with the assignment of heads of revenue to the Union and to the States as a distinct and specific item, parallel to and distinct from the distribution of legislative powers between them ; the heads of revenue are treated as incidental to the legislative powers. All the revenues derived from the heads enumerated in the Union Legislative List are to be credited to the Consolidated Fund of India unless the Constitution provides to the country ; and the States find the sources of their revenues in the subjects enumerated in the State Legislative List. Except fees on some heads there are no items in the Concurrent Legislative List which can yield revenue. The taxes which the Union-

* oshi : *op. ct.*, page 267.

Government is authorised to levy and collect are stated in the Union List,— items 82—92 ; the taxes which the State Governments are empowered to levy and collect are similarly stated in the State List,— items 46—66.

The following are the taxes which the Union Government is authorised to levy ; taxes on income other than agricultural income ; custom duties including export duties ; excise duties on tobacco and other goods manufactured or produced in India except alcoholic drinks for human consumption, opium, Indian hemp and other narcotic drugs and narcotics ; corporation tax ; taxes on the capital value of assets, exclusive of agricultural land, of individuals and companies, taxes on capitals of companies ; estate duty in respect of property other than agricultural land ; duties in respect of succession to property except agricultural land ; terminal taxes on goods and passengers carried by railways, sea, or air ; taxes on railway fares and freights ; taxes other than stamp duties on transactions in stock exchanges and future markets ; rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, insurance policies, transfer of shares, debentures, proxies and receipts ; taxes on sale or purchase of newspapers, and on advertisements published therein ; and fees in respect of any of the matters in the Union List except fees taken in any court.

The following are the items in the State Legislative List which constitute the sources of revenue of the States :

Land revenue ; taxes on agricultural income ; duties in respect of succession to agricultural land ; estate duty in respect of agricultural land ; taxes on land and buildings ; taxes on mineral rights subject to laws made by Parliament ; excise duties on alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs, but excluding medicinal and toilet preparations containing alcohol, opium, etc. ; taxes on the entry of goods into a local area for consumption, use or sale therein : taxes on the consumption or sale of electricity ; taxes on the sale or purchase of goods other than newspapers ; taxes on advertisements other than those published in the newspapers ; taxes on goods and passengers carried by road or inland waterways ; taxes on vehicles used on roads ; taxes on animals and boats ; tolls ; taxes on professions, trades, callings and employments ; capitation taxes ; taxes on luxuries including taxes on entertainments, amusements, betting

and gambling ; rates on stamp duty on documents other than those subject to Union stamp duty ; and fees in respect of any matter included in the State list but not including fees taken in any court.

One is apt to conclude from the above that our Constitution has effected a clear-cut division of the various sources of revenue into two parts, assigning one to the Union and the other to the States. Such, hewever, is not the case. The inclusion of a tax in the Union Legislative List merely signifies the right of the Union Parliament to make laws concerning its imposition and rates ; it does not mean that proceeds from it necessarily belong to the Union and can be utilised by it for meeting its own purposes. As a matter of fact the Union Government is allowed to retain for its use the proceeds from some of the taxes only which it is authorised to levy. There are certain duties which are levied by the Union but are collected by the States, and certain other duties and taxes which are levied and collected by the Union but whose proceeds are assigned to the States. There are also taxes levied and collected by the Union Government but distributed between the Union and the States. Of course, there are many duties and taxes levied and collected by the Government of the Union for its own purposes. There is thus a good deal of complexity in the financial relations between the Union and the States. All these provisions had to be made because the income from the taxes and other items mentioned in the State Legislative List was found to be inadequate to meet the requirements of the States which need large and increasing funds for nation-building activities like education, public health, rural development, and irrigation. It should also be remembered that the sources of income assigned to the States are mostly inelastic ; they cannot be made to yield increasing returns to meet the fast-growing demands of the States. Large and expanding sources like customs and income-tax have been assigned to the Union. This also necessitated that the States should be given a share in the proceeds of some taxes levied and collected by the Union.

It should also be remembered that proceeds from several taxes included in the State Legislative List are reserved for the use of local bodies like Municipal and District Boards. The State Legislature simply makes laws for their levy ; they are collected by the local bodies. Some local rates and cesses are collected by the States and handed over to the latter. The actual allocation of

proceeds from the various taxes and duties is thus different from what the allocation of heads of revenue in the Legislative Lists may suggest.

From the point of view of their actual allocation the different taxes and duties mentioned in the Union List which the Gevernment of India is authorised to levy can be arranged into the following five categories :—

1. To the first category may be assigned such duties as are levied by the Union but collected and appropriated by the States. They include stamp duties and excise duties on medicinal and toilet preparations. The stamp duties include duties on bills of exchange, cheques, promissory notes and insurance policies. It should be remembered that it is only Part A and Part B States which have Consolidated Funds of their own which collect and keep the proceeds of these duties. Since Part C States are centrally administered areas and have no consolidated funds of their own, proceeds from these duties within their areas are credited to the Consolidated Fund of India. When a Part C State becomes self-governing and comes to have its own Consolidated Fund, it would acquire the right to collect and keep the proceeds of these dutise like Part A and Part B States.

2. To the second category may be assigned taxes and duties levied and collected by the Union but assigned to the States. They include (*a*) duties in respect of succession to property other than agricultural land ; (*b*) estate duty in respect of property other than agricultural land ; (*c*) terminal taxes on goods and passengers carried by railway, sea or air ; (*d*) taxes on railway fares and freights ; (*e*) taxes other than tax stamp duties on transactions in stock-exchange and future markets ; and (*f*) taxes on the sale or purchase of newspapers and on advertisements published therein.

It should be borne in mind that it is only the *net* proceeds from these duties and taxes levied and collected by the Government of India which are distributed among the Part A and Part B States (Part C States are excluded as they are centrally administered areas) in such manner as may be determined by Parliament. Estate duty means duty assessed on property passing from one person to another on death.

3. To the third category may be assigned taxes levied and collected by the Union and distributed between the Union and the

States. Taxes on income other than agricultural income is the principal item under this class. But Parliament may include excise duties other than on medicinal and toilet preparations which can be levied by the Union under this head. The way in which the proceeds of these taxes and duties are to be distributed between the Union and the States is to be determined at first by the President and later on by the Finance Commission.

4. To the fourth category may be assigned the export duty on jute and jute goods which is levied and collected by the Government of India and proceeds from which are credited to the Union Consolidated Fund. In lieu of assigning shares in the net proceeds of this duty to the States of Assam, West Bengal, Bihar and Orissa, the Government of India gives them grants-in-aid.

5. To the fifth category belong all the other taxes nnd duties mentioned in the Union Legislative List. They are levied, collected and appropriated by the Government of India. Proceeds from them are credited to the Consolidated Fund of India and are at the disposal of the Union Government to meet its requirements. It should be remembered that any surcharge on duties and taxes mentioned in categories 2 and 3 above, *i. e.,* on taxes and duties which are levied and collected by the Union but assigned to the States or shared by the Union with the States, belong entirely to the Union.

The sources from which the Government of India derives its revenues may be classified under three heads. Under the first we may put all the taxes and duties which the Government of India is authorised to levy and collect but which are not assigned in their entirely to the States. The more important of them are customs duties, union excise duties, corporation tax, surcharge on duties and taxes, taxes on capital values of assets of individuals and companies, stamp duties other than duties or fees collected by means of judicial stamps, and income-tax. Under the second head we may put commercial operations like posts and telegraphs, railways, banking and other commercial operations. To the third class belong sovereign functions like those of currency and coinage, and escheat and lapse in areas administered by the Union Government. Sums which are paid to the Rulers of the old style Indian States as their privy purses are received from the States within which their territories have been merged or from Part B States.

The following table shows the relative importance of the main sources of revenue of the Indian Union for 1954-1955 :—

Revenue	
Customs	1,75,00,00,000
Union Excise Duties	92,60,00,000
	+ 11,85,00,000
Corporation Tax	38,35,00,000
Taxes on Income other than Corporation Tax	70,67,00,000
Estate Duty	25,00,000
Opium	1,85,00,000
Interest	2,78,90,000
Civil Administration	10,48,00,000
Currency and Mint	20,42,00,000
Civil Works	1,63,00,000
Other Sources of Revenue	7,92,00,000
Post and Telegraphs—Net contribution to general revenues	1,50,00,000
Railways—Net Contribution to General revenues	7,37,00,000
Extra-ordinary items	10,21,00,000
Total ... 4,41,03,00,000 +	11,85,00,000

The main heads from which the States derive their revenues are the following : Land revenue, water-rates ; state excise ; stamps ; forests ; registration ; motor vehicles tax ; miscellaneous taxes like the urban immovable property tax, entertainment tax, sales tax, tax on agricultural incomes ; and a share in certain duties and taxes levied and collected by the Union Government. Taxes on lands and buildings, taxes on the entry of goods into a local area for consumption or sale therein, taxes on animals and boats, tolls, taxes on professions, callings, trade, etc., are levied and collected by local bodies like municipal and district boards for their own purposes ; proceeds form them do not form part of the Consolidated Fund of a State.

It was pointed out above that according to the general principle of federal finance the Government of the Union and the Governments of the States should be independent of each other as regards their financial resources. Our Constitution has departed

from the principle not only by keeping joint-heads of revenue like income-tax and the excise duty on tobacco the proceeds from which are divided between the Union and the States, but also by providing for grants from the former to the latter. The Government of the Union makes grants-in-aid of the revenues of States for four different purposes. First, it may give a grant in lieu of share in the proceeds of certain taxes and duties. As has been shown above, Assam, Bihar, Orissa and West Bengal are given grants-in-aid instead of a share in the proceeds from export duty on jute and jute goods. Second, a grant may be given to meet expenditure incurred in connection with new obligations ; *e. g.,* relief and rehabilitation work. Third, it may be given to enable a State to undertake schemes of development for promoting the welfare of Scheduled Tribes or raising the level of administration of Scheduled areas in it, provided the schemes have the approval of the Government of the Union. Lastly, the Government of the Union may give grants-in-aid to deficit and poor States to help them tide over their financial difficulties. Grants under the last two heads have to be authorised by law by Parliament, and are entirely optional.

Borrowing — The Constitution permits the Government of India to borrow upon the security of the Consolidated Fund of India within limits which may be fixed by Parliament by law from time to time. States are also permitted to borrow upon the security of their respective Consolidated Funds within limits laid down by their legislatures. But they have no power to borrow in foreign markets. The Government of India may advance loans to any State. If a State is indebted to the Government of India, it cannot borrow without its consent.

Finance Commission — The Constitution provides for the appointment of a Finance Commission within two years of its commencement and thereafter at the expiry of every five years or earlier if the President thinks fit. It is to consist of a Chairman and four other members. Their qualifications are to be determined by Parliament. The first Commission under this provision was appointed by the President on November 30, 1951, and it submited its report on Dec. 31, 1952. It recommended that 55% the of proceeds from Income-Tax should be distributed among the States. Hitherto the divisible pool consisted of 50%. The Second Commission has been recently appointed to look into the financial relations between the Union and the States.

The purpose of the Commission is to review from time to time the financial relationship between the Union and the States and to make recommendations regarding (*a*) the distribution between them of the net proceeds of taxes and duties which have to be or may be divided among them ; (*b*) the principles which should govern the grants-in-aid of the revenues of the States ; (*c*) the continuation or modification of the terms of any financial agreement entered into between the Union and the States ; and (*d*) any other matter which may be referred to it by the President. The Commission is empowered to determine its own procedure. The President must place the recommendations of the Commission before Parliament together with a statement of the action he proposes to take on them. He is not bound to accept them. But he cannot take action in regard to the matters which come within its scope without first considering its report.

CHAPTER XIX

The Services under the Union and the States

Role of the Public Services — Whether or not one agrees with some modern writers in ranking the permanent civil service, political parties, local self-government and public opinion as organs of the state on a level with the executive, the legislature and the judiciary, there can be no denying the fact that the public services have come to play a vital role in the modern state which is fast growing into a welfare or social service state. However well-framed a constitution may be, its success or failure depends, in the last analysis, upon the intelligence, capacity and integrity of the persons who man the civil services under it. The constitution may be a model of perfection, the legislature may consist of experienced and capable persons, and the Cabinet Ministers may be the very embodiment of honesty, patriotism and sound common-sense ; nevertheless, the government of the country would fail to give satisfaction to the people if the members of the administrative services who give effect to the policies decided upon by the Legislature and the Cabinet are incompetent, inefficient, dishonest and corrupt. It should always be remembered

that neither the Legislature nor the Cabinet is an administrative body ; the former makes laws and grants money for carrying on the work of administration, and the latter formulates policies and arrives at decisions in regard to the important problems which demand attention and solution—subject, of course, to the approval of the legislature. The actual work of executing the laws and giving effect to the policies is left to the members of the permanent services employed in the various administrative departments of the state who come into contact with the people. Everywhere the efficiency of the administration ultimately depends upon the calibre, training and integrity of the public services.

It is therefore the natural desire of every government to ensure a continuous supply of the right type of capable men for its administrative services. Methods of recruitment and training, conditions of service and promotion, etc., are all determined with that end in view. Such matters are not usually dealt with by the Constitution : they are left to be regulated by the Legislature. Our Constitution does likewise. It empowers the appropriate legislature to regulate by law the method of recruitment of suitably qualified persons to public services in the Union and the States, determine their conditions of service, promotion, and transfer from one service to another in consultation with the Public Service Commission concerned. It also lays down that there shall be a Public Service Commission for the Union and one for each of the States, and prescribes rules for their appointment, functions, etc. It also secures to the civil servants two important rights. By laying down that no person who is a member of the civil service of the Union or of a State or of an All-India Service shall be dismissed by an authority subordinate to that by which he was appointed and that no such person can be dismissed, removed or reduced in rank without being given a reasonable opportunity to defend himself ; the Constitution guarantees security against wrongful and arbitrary dismissal or reduction in rank. It also assures to all those persons who were appointed by the Secretary of State for India to a civil post under the Crown in India and who chose to serve free India that their conditions of service as regards remuneration, leave, pension, etc., shall remain the same as before.

Public Services under the New Constitution — The general scheme and classification of public services under the new set-up has

been taken over from the pre-existing system during the British period with necessary changes. As before, the public services are divided into two broad groups, the Defence Forces and the Civil Services. The Constitution says nothing about recruitment to and conditions of service, promotion, etc., in the Armed Forces of the country. Obviously, they are to be determined by the President in his capacity as the Supreme Commander of the defence forces ; they are beyond the control of the Public Service Commission of the Union which deals with the Civil Services only.

Defence Forces — With the achievement of national independence the conditions of service in the armed forces of the country have undergone a fundamental change. Under the British regime the defence forces consisted of two parts. The Indian army, largely officered by Britishers, constituted one part, and the British soldiers the other. The Indian elements in the army were recruited mostly in the northern provinces and States and there also from only selected sections of the population generally known as the martial races. The exclusion of a large section of the population from the army, the total lack of opportunity of service in the superior ranks, and the non-existence of an Indian navy, artillery or air force were the chief features of the organisation of the defence forces at the end of the First World War. On account of the stress of the Second World War these shortcomings were removed to a certain extent. The army was greatly expanded and recruitment to it was made from almost all the communities. When hostilities ceased in 1945, about a third of the total number of officers were Indian nationals. An Indian navy and air force had also come into existence, and several Indians found a place in the technical branches of the fighting services. This process has been carried much farther after the attainment of independence. The armed forces of the country provide careers as officers for aspiring and able and intelligent young men of the country. The country is busy building up a strong navy and air force.

Civil Services — The organisation of the Civil Services into three ranks or cadres as it existed during the British regime still continues ; only their names have been changed. We have at present the All-India Services, the Union Services, and the State Services.

(*i*) The All-India Services. They correspond to the All-India

Services recruited and controlled by the Secretary of State for India under the preceding regime. The reasons for the continuation of the All-India Services were thus described by Dr. Ambedkar in the course of a speech delivered in the Constituent Assembly : "In all Federations there is a Federal Civil Service and a State Civil Service. The Indian Federation, though a dual polity, will have a dual service but with one exception. It is recognised that in every country there are certain posts in its administrative set-up which might be called strategic from the point of view of maintaining the standard of administration......... the standard of administration depends upon the calibre of the Civil Servants who are appointed to the strategic posts. The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All-India Service recruited on an All-India basis with common qualifications, with uniform scale of pay and members of which alone could be appointed to those strategic posts throughout the Union." But whereas there were several services of an All-India character before 1937, *e. g.*, the Indian Civil Service, the Indian Medical Service, the Indian Police Service, under the new set-up there will be only two of them, namely, the Indian Administrative Service and the Indian Police Service. The Council of States is given the power to create by law new All-India Services common to the Union and the States and regulate the recruitment to such services and determine the conditions of service in them. Such a law must be passed by a two-thirds majority.

(*ii*) The Union Services constitute the second category of the public civil services. They correspond to the Federal Services under the old regime. Recruitment to them and to the All India Services is made by the President on the recommendations of the Union Public Service Commission. Persons appointed to them hold office during the pleasure of the President. In other words, they are guaranteed security of tenure. No member of these services can be dismissed from office or reduced in rank without having been given a reasonable opportunity of defending himself against the charge brought against him, unless he is dismissed on the ground of conduct which led to his conviction on a criminal charge.

The Union Services include services in the administrative departments of the Government of India like the Foreign Department, Customs Department, Audit Department, Finance Department, Posts

and Telegraphs, Railways, Income-tax, etc. Members appointed to the Indian Administrative Service can also be appointed to the highest offices in these departments.

(*iii*) The State Public Services. The third class of public servants consists of those who serve in the various States and are under the general control of the Governor or the Rajpramukh. They are appointed by the Governor or the Rajpramukh as the case may be on the recommendation of the Public Service Commission for the State and hold office during the pleasure of the Governor or the Rajpramukh. It must not be assumed that all the persons serving under a State Government belong to the State Civil Service. Persons holding high and responsible posts like those of the Divisional Commissioners, District Magistrates, Inspector General of Police and the Superintendents of Police belong to the Indian Administrative and Police Services. It is posts like those of the Deputy Collectors, Civil Surgeons, District Inspectors of Schools, Director of Education, Deputy Superintendents of Police, Tehsildars which belong to the State Civil Service. The Constitution does not divide them into various grades, but they can be classified into superior and subordinate state services. Deputy Collectors, District Inspectors of School, Civil and Assistant Surgeons, Deputy Superintendents of Police, Civil Judges, Headmasters and Principals, etc., belong to the superior grade ; Tehsildars, Sub-assistant Surgeons, Assissant Masters, Sub-inspectors of Police, Excise Inspectors, etc., may be assigned to the subordinate class. The two grades differ in scales of pay and promotion. The more able and efficient of those in the subordinate service may find themselves promoted to the superior grade before they retire.

Changes introduced by the New Constitution—As has been indicated above the old classification and arrangement of public services survives in the new order. This was unavoidable. The nation took over the government of the country as a going concern; no radical changes in the general administrative structure were possible. Continuity with the past was absolutely indispensable for stability and order. This was the reason why the National Government gave an assurance to all the members of the old I. C. S. and other Imperial Services who decided to serve under the new Government that no change which affected them adversely would be made in their conditions of service, etc. This assurance is embodied in

Article 314 of the Constitution. Nevertheless, some vital changes have taken place in the recruitment, etc., of the civil services. They are as follows :—

(*i*) Recruitment and control of the public services by a foreign authority like the Secretary of State for India has come to an end. Now, recruitment and appointment to the All-India and Union Services are made by the President on the recommendation of the Union Public Service Commission, and to the State Services by the Governor or the Rajpramukh on the advice of the State Public Service Commission. (*ii*) Whereas previously non-Indians were appointed to the highest posts and the sons of the soil had to be content with junior appointments, under the changed conditions only the citizens of India are eligible for appointment to posts in the national service. Non-Indians can be appointed to special posts requiring technical skill for short terms on contractual basis (*iii*) The name of the Indian Civil Service has been changed to Indian Administrative Service. (*iv*) The Indian Medical Service, the Indian Service of Engineers and other All-India Services except the Indian Police Service have been abolished.

It hardly needs pointing out that, except for very few Britishers who remain from the old days, our public services, both civil and armed, have been completely Indianised. The State being secular, the public services are open to members of all communities on terms of equality irrespective of differences in race, religion, etc.

Reference may also be made to the provisions of the Constitution which lay down that in making appointments to civil posts in the Union and the States the claims of the Scheduled Castes and the Scheduled Tribes should be borne in mind. Similarly, the privileged position enjoyed by the Anglo-Indian community in the matter of appointment to posts in the railways, posts and telegraphs, and customs services has been guaranteed to it for the first two years after the commencement of the Constitution, after which period the seats reserved for it would be diminished by one-tenth every second year so that reservation shall cease after ten years completely.

Public Service Commissions—In conformity with the practice prevalent in democratic states our Constitution provides for a Public Service Commission for the Union and one for each of the States. But two or more States can have a Joint Commission to serve their needs, provided each House of the State Legislature concerned passes

a resolution to that effect. The Union Public Service Commission, if requested by the Governor or Rajpramukh of a State, may agree to serve all or any of its needs, provided the President agrees.

The Constitution does not fix the strength of the Commission in any case. The exact strength of the Commission and the conditions of service are left to be determined by the President or the Governor or the Rajpramukh as the case may be. It has been decided that the Union Commission will have from six to eight members and a State Commission three members. One of the members is appointed as its Chairman. The members and the Chairman of the Union Public Service Commission are appointed by the President, and of a State Commission by the Governor or the Rajpramukh concerned In order to secure the services of men of experience to serve on each Commission it is provided that about one-half of its members must be persons who, at the date of their appointment, must have held office for at least ten years either under the Government of India or under the Government of a State. Members hold office for a six-year term or till the attainment of the age of sixty-five in the case of the Union Commission and of sixty years in that of a State Commission, whichever is earlier. In order to secure impartiality and integrity in the performance of their work it is laid down that no member of a Commission is eligible for appointment to any office under any government, except as a member or Chairman of another Public Service Commission. The salaries, allowances, etc., of the members of the Public Service Commission and other staff have been made a charge on the revenues of the Union or the State as the case may be; they are not subject to the vote of the legislature. The conditions of service in respect of pay, leave, pension, etc., of the members of a Commission cannot be varied to their disadvantage during their term of office. A member may resign his office at any time he likes. He can be removed from office by the President or the Governor or Rajpramukh of the State concerned on ground of misbehaviour, after the Supreme Court has made an enquiry into the matter and reported that he may be removed. The President may also remove the Chairman or any member of a Commission if he is declared to be bankrupt, or accepts any employment outside the duties of his office, or is deemed by him to be unfit to continue in office on account of infirmity of mind or body:

Functions of the Public Service Commissions—The main function of the Union and State Public Service Commissions is to conduct examinations for recruitment to the All-India, Union and State Services as the case may be, and on the basis of their results to recommend persons for appointment to the civil services. The Union Commission, if so requested by any two or more States, may assist those States in framing and operating schemes of joint recruitment for any service for which candidates possessing special qualifications are required. In this connection it should be remembered that a Public Service Commission does not itself make any appointments; appointments to the various posts in the Union and to All-India Services are made by the President, and in the States by the Governor or the Rajpramukh concerned. The Public Service Commission concerned simply recommends names for them on the basis of the examination it has conducted for the purpose. Its function is thus advisory and not executive.

The second main function of the Commissions is to function as the guardians of the civil services. The Constitution lays down that the Union or the State Public Service Commission, as the case may be, shall be consulted (*a*) on all matters relating to the method of recruitment to civil services and for civil posts, (*b*) on the principles to be followed in making appointments to them and in making promotions and transfers, and on the suitability of candidates for such appointments, promotions and transfers, (*c*) on all disciplinary measures affecting persons serving under the Government, (*d*) on their claims for payment of costs incurred in defending legal proceedings, and (*e*) on their claims for compensation for injuries incurred on duty and the amount of such compensation. The President and the Governors and Rajpramukhs are empowered to make regulations specifying the matters in which, either generally or in particular circumstances, the Commission need not be consulted. Such regulations must be placed before each House of Parliament or the State Legislature as the case may be, and shall be subject to such modifications as the houses may make by way of amendment or repeal. No reference need, however, be made to a Commission on the question of reserving posts for backward classes, Scheduled Castes and Scheduled Tribes.[5]

Additional functions may be assigned to the Union Commission by an Act of Parliament, and to a State Commission by an Act of

the Legislature of the State concerned.

Each Commission is required to make an annual report to the head of the government concerned about its work during the year, and the Head of the Government shall place it before the legislature together with a memorandum explaining the cases in which the advice of the Commission was not accepted. The Government will have to explain all deviations from the recommendations of the Commission.

The provisions of the Constitution for securing the independence and impartiality of the Public Service Commissions in the performance of their functions have been already stated, they may be summarised here. The members cannot be removed from office except by the President on ground of mis-behaviour proved to the satisfaction of the Supreme Court: their salaries are not subject to the vote of the Legislature; they are not eligible for appointment to any office other than as a member or chairman of another Commission, etc.

CHAPTER XX

Integration of the States and their Democratisation

Introductory—In the preceding seven chapters we have reviewed the main provisions of the Constitution of the Indian Republic. The story of the way in which the distinction between the two political divisions of India known as British India and Indian States was abolished and the whole of the territory from the Himalayas in the north to Kanya Kumari in the south, and from Assam in the east to Kathiavar and Kutch in the west was integrated under one polity forms no part of it. This and the democratisation of government in the areas formerly ruled by the Indian Princes are, however, too interesting and important topics to be wholly left out in a book like this. We, therefore, propose to give in this chapter a short account of the way in which the territorial integrity of the country was achieved and despotic rule in the States ended. Both these trans-

formations have been achieved in an almost wholly bloodless way. No force was exercised except in the case of Hyderabad. History hardly gives a parallel to so bloodless and peaceful a revolution.

The Problem—To appreciate the magnitude of these achievements properly we must know the state of affairs in the country when the British decided to quit India, and the problem which faced our leaders.

There was not only the great tug of war between the Indian National Congress and the Muslim League which ultimately led to the division of the country into India and Pakistan; there was also the problem of the Indian States. It should be borne in mind that they did not form part of British India and were not subject to the control of the British Parliament. The transfer of power from British to Indian hands, therefore, did not affect them. The Cabinet Mission plan and the Statement of June 3, 1947, had made it clear, and the point was repeated in the Indian Independence Act of 1947, that the Paramountcy of the Government of British India over the States would not be transferred to the successor national government but would lapse. Section 7 (1) (b) of the Act of 1947 provided that On an appointed date 'the Suzerainty of His Majesty over the Indian States lapses, and with it all treaties and agreements in force at the date of the passing of this Act between His Majesty and the Rulers of Indian States'. The Indian States were to be left free to decide their future as they thought best. A State could join any of the two Dominions which were to come into existence on the 15th of August, 1947; it could even remain as a free and independent unit. Many British administrators 'who had lived in India for a life-time, were convinced till the last moment that the Princes would not submit themselves to the authority of democratic leaders and, as they had their own armies, they would resist any encroachments on their power, leading to certain civil war in which even the structure of new India may perish'.* That this belief was not unfounded is proved by the fact that some of the Princes thought that the time was opportune for them to declare their independence. The rulers of Hyderabad and Travancore took some steps to implement this idea; the Nawab of Bhopal also toyed with it. Even the Maharaja of Gwalior wanted to remain independent. The attitude of these three States brought home to the Government of India and her

* Chanakya : *The Indian Revolution*, page 123.

people the great danger that lurked behind these ambitions,—namely, the danger of the Balkanisation of the country. The danger was averted by the tactful and sagacious manner in which Sardar Patel, who took over charge of the States Ministry which was brought into existence on July 5, 1947, handled the problem of Indian States, the noble and patriotic attitude of a large number of the Princes themselves, and by the way in which the people of the States forced the hands of the Rulers who thought of declaring themselves independent to accede to the Indian Union. In Travancore whose ruler wanted to declare his independence there was a popular upheavel as a result of which the Dewan had to leave the State, and in Hyderabad there was a state of civil war which necessitated police action on the part of the Government of India. A few words under each head are necessary.

The Policy of Sardar Patel—Immediately on taking over charge of the newly formed department of States Ministry in the Government of India Sardar Vallabhbhai Patel issued a historic statement in which he outlined the policy the Government of India wanted to adopt in regard to the States. He reminded the Princes that in the past India succumbed to foreign invaders because of her politically fragmented condition and the consequent inability of Indians to offer a united stand to them. He said : 'Our mutual conflicts and internecine quarrels and jealousy have in the past been the cause of our downfall and of our falling victims to foreign domination a number of times. We cannot afford to fall into those errors and traps again'. He therefore appealed for unity and mutual co-operation between the different parts of the country for the safety and preservation of the States as well as of India. He assured the Princes that it was no part of the policy of the Government of India to assume paramountcy over the States in any shape or form, but added that the Government would not allow vacuum or anarchy in any part. Speaking in the Constituent Assembly on December 9, 1947, he said : 'Paramountcy is dead and gone and nobody laments or mourns it. There is no reason, however, to think that because paramountcy has disappeared, there is going to be no power in India. The Government of India proposes to function as a government, and would not leave a vacuum or anarachy in any part of India whatever happens'. He evolved a formula for the accession of the States to the Indian Union which, on the one side, allayed the fears and suspicions of the Princes by

conceding to them the substance of their ancestral privileges, and on the other side, enabled them to cast their lot with the rest of the country for their own good and the good of all. Lord Louis Mountbatten, Governor General, also strongly advised the Princes to accede to either the Dominion of India or Pakistan as demanded by geographical and other considerations, in regard to at least Defence, External Relations and Communications.

The Response of the Princes.—Most of the Princes realized that they could not exist and function as rulers of independent units ; they therefore decided to join the Indian Union and establish a new and rational relationship with it. Thus even before the formal transfer of power on the 15th of August, 1947, some 400 states including Mysore, Cochin, Udaipur, Jaipur, Baroda, Patiala and Kolhapur had acceded to the Indian Union. The only three States which failed to do so were Hyderabad, Junagarh and Kashmir. Kashmir sought accession in October 1947, with a view to seeking military aid and protection against the tribesmen who had made forcible entry into its territory at the instigation of Pakistan and were killing and looting the people. India accepted accession subject to a plebiscite of the people. The question of the plebiscite still hangs fire. Some sort of action became necessary against Junagarh ; the Nawab, however, fled, and the State acceded to India peaceably. Police action had to be resorted to against Hyderabad, and the Nizam ultimately acceded to the Indian Union. As a result of the accession of all these States, to-day the Government of India wields authority over a larger area than any historical empire, *e. g.*, the empires of the Mauryas, the Guptas, and of the Mughals, did in the past. Even under the British rule more than two-fifths of the territory was painted yellow on the map and not red.

The topographical position of the States also militated against their independence of the rest of India. A glance at the map would show that, with the exception of Cochin, Travancore, a few States in the peninsula of Kathiawar and the island of Kutch, the India States were 'an almost continuous chain of land-locked territories down the spine of India'. Independently of India they could have no export or import trade. Their position thus made an all-round co-operation with India necessary as well as profitable. Nor should it be forgotten that the States people were united to the people of India by religious, cultural and other ties. All the factors thus pointed in the direction

of a close linking up of the States and the rest of India in an integral whole. The role played by the States peoples will be described in another context in this chapter.

Another Problem—The accession of all the States to the Indian Union (excepting those whose natural affinity lay with Pakistan and which therefore joined that Dominion) provided solution for only a part of the difficult and complicated problem which their existence gave rise to. Their great multiplicity and the equally great differences in size, population, income, etc., presented another problem which had to be tackled.

The memorandum on Indian States published by the Government of British India put their number at 601. The Butler Committee put it at 562. Sir Warner Lee in his book *Native States of India* spoke of 693 States. It does not matter much whether their number was 562, 601 or 693; it is sufficient for our purposes to note it was very large. How to adjust such a large number of States which exercised independent or semi-independent jurisdiction during the British period with the new set-up was indeed a tough problem. Under the able and wise guidance of Sardar Patel the States Ministry rose equal to the occasion and solved it in an admirable manner. Before describing the manner of this solution, it is necessary to draw the attention of the reader to some very significant features of the situation. The States were not only numerous, they also differed vastly in size, etc. They ranged all the way from Hyderabad with an area of 82,700 sq. miles, a population of 16½ millions, and an annual revenue of about ten crores of rupees to Bilbari with a few acres of land, a population of 27 and annual revenue of eighty rupees. Of nearly six hundred States only three had an area of over 50,000 sq. miles, and only four an area between 10,000 and 20,000 sq. miles. Nine of them had under 10,000 sq. miles; 69 had under 1,000 sq. miles and 168 under 10 sq. miles.

Kathiawar had 283 States of which nine were large. The remaining 274 had a total revenue of 135 lakhs of rupees. This sum had to maintain 274 ruling families and was expected to run 274 separate, semi-independent administrations. The total area of the 283 States was about 32,000 sq. miles, and their total population four millions. 'This provides the people of Kathiawar (excluding the large states) with one separate state for every 25 sq. miles or every 500 heads of population. If the revenues of 171 of the smaller States

are added up, they amount to Rs. 650,000 with an average of Rs. 3,813 as the annual revenue for each of them. This meagre sum is supposed to meet the expenses of administration and other necessary functions of the state'. These calculations are highly significant: they explain the difficulties arising out of the small size of a very large number of States as perhaps no words can. In short, the small size of numerous states led to inefficient administration and economic backwardness, and neglect of the development of their natural resources.

Reference should be made to another feature of administration in the States. Every one of them, large or small, had the monarchic system of government, and the ruler depended upon the Paramount power for his authority and even existence. Except in the case of Aundh, democracy had not been introduced in any State, though some of them had introduced legislative assemblies or councils with very limited powers. They were modelled after the Central Legislative Assembly as constituted under the Act of 1919. The absence of democratic institutions and the dependence of the Rulers of the States on the Paramount power had a very disastrous consequence. It led to the separation between power and responsibility. The Paramount power guaranteed protection and security to the Princes but did not enforce responsibility for the good government of their people. This feeling of security generated by dependence on British power deprived them of the stimulus to good government which is supplied by fear of rebellion and deposition. Little wonder then, that they tended to become sensualist, extortionate misers, careless and lax rulers. The higher classes, coerced by external ascendancy, in turn lost their self-respect and tended to degenerate like their masters. The problem before the Government of India was to improve the standard of administration in the States and lift the complicated system of repression under which the States people were groaning.

The difficulties created by the separate existence of a large number of small States were sought to be removed by the double process of merger and integration, and those due to the separation between power and responsibility by the introduction of democratic form of government like the one set up in the erst-while Provinces. The two processes may be briefly described.

Merger and Integration—Even before India became free there was a strong feeling in the country that the existence of small States

was politically undesirable and economically impracticable. Not unoften they were described as relics of feudal days which ought to be abolished. A resolution was passed in 1939 at the Ludhiana session of the States Peoples Conference recommending the merger of small States with adjacent provinces and the union of the other States into large administrative units. It was reaffirmed in the 1946 and 1947 sessions of the States Peoples Conference. Obviously, the people were powerless to give effect to it, and the British Government was not interested in implementing it as it ran counter to its policy of using them as pawns on the chess-board of Indian politics. This policy may best be described in the words of Professor Rushbrook Williams, an official apologist for the India Office. He wrote thus : 'The situation of these feudatory States, checkboarding all India as they do, is a great safeguard. It is like establishing a vast net-work of friendly forces in debatable territory. It would be difficult for a general rebellion against the British to sweep India because of this net-work of powerful loyal Native States'.

At a later date, in 1946, Lord Wavell in his capacity as the Crown Representative proposed a merger scheme according to which the smaller States were to be integrated with neighbouring bigger ones with which they had geographical, economic, and political affinities. The scheme covered an area of 7,000 sq. miles and a population of over eight lakhs. It would pay the reader to go through the following extracts from the Government Communique : 'The Crown Representative has for a long period had under intensive review the perplexing political and administrative problems which arise from the existence......of hundreds of small units...... Owing to the slenderness of their individual resources and general aversion to neighbourly cooperation, there has arisen......geographical, administrative and economic fragmentation on a scale unknown anywhere else in the country. In the great majority of these units the revenue......barely suffices for the private needs of the taluqdars and shareholders, and the amenities provided for their subjects......are therefore sadly circumscribed........... The survey has fully established that without some drastic simplification of existing arrangements, any kind of coordinated development of the countryside or any form of real progress is impossible'. The States referred to in the passage were in Kathiawar. The plan of merger and union indicated in it was indeed needed, but the way in which it was

imposed on the people was liked neither by the people nor by the rulers. What could not be done at all or was done badly was left to be accomplished in a remarkably successful way by Sardar Patel. It is not necessary to describe in detail the scheme of merger and integration of the States as it took shape in the masterly hands of Sardar Patel; only this much may be stated that his Gandhian approach to this delicate and difficult problem found support from all concerned, the Congress, the States peoples and the Rulers. The States people confided in him as they knew him to be their friend and champion. The Rulers also knew that as a follower of Mahatma Gandhi he believed that the Princes need not be removed; they felt that he could be depended upon to safeguard their legitimate rights and privileges. Sardar Patel thus succeeded because he was able to hold the balance between the Rulers and the ruled and could assure both that he would not sacrifice the legitimate interests of either.

All the small States which were incapable of maintaining efficient standards of administration and providing necessary services to their people were either merged in the neighbouring State or integrated to form bigger units. Thus most of the Gujerat States and some of the Deccan States were merged in Bombay, and those of the Madras Presidency were united with Madras. Similarly, the States in C. P., Orissa and U. P. were merged into their respective provinces or States. The Kathiawar States were integrated to form the Union of Saurashtra; those in East Punjab were formed into the Patiala and Eastern Punjab States Union; the Simla Hill States were integrated to form Himachal Pradesh; Indore, Gwalior and other Malwa States were formed into Madhya Bharat ; and the Bundelkhand States were formed into Vindhya Pradesh. The largest Union of States is Rajasthan. Hyderabad, Mysore and Jammu and Kashmir were large enough to form separate units by themselves. Bhopal, Tripura, and a few other States have neither been merged into any neighbouring State nor integrated into any bigger unit; they remain as centrally administered States and are placed in Part C of the First Schedule. The effect of this process of merger and integration was to reduce the number of Indian States to 15 only. It may be added that though Kashmir has acceded to the Indian Union and its territory forms part of the territories of the Indian Union, its status in the Union is slightly different from that of other units.

Democratisation of the States—The process of merger and

integration constituted one aspect of the revolution that was going on; its other and more important aspect was the democratisation of the machinery of government in the States. When the people of British India were engaged in the non-violent struggle for winning national freedom, the people of the States did not remain unaffected; they also became conscious of their political rights and of the various disabilities from which they suffered. This consciousness spurred them to action, and a vigorous States People's movement came into existence in several States. With the passing of years it grew in numbers as well as in strength. It is not necessary to describe its growth and the resolutions passed at the annual sessions of the States People's Conference over which leaders of the Indian National Congress generally presided.

As the date fixed for the transfer of power from Britain to India drew nearer, the desire of the people of the different States for the introduction of democratic institutions in them also grew more intense. It was whetted by the statements made by Congress leaders from time to time that though the Congress did not contemplate the extinction of the Princely order in the States, they certainly expected the Rulers to take note of the spirit of the time and democratise their administration. Serious disturbances broke out in one of the small States in Orissa in October 1947. The Ruler found it impossible to maintain law and order, and the Government of India was driven to intervene and bring the situation under control. It took over the administration of the State in November with the consent of its ruler.

The Government of India arrived at a settlement with the Rulers of all the Orissa and Chattisgarh States regarding the integration of their territories with the neighbouring province. In a statement issued by him on the occasion Sardar Patel said : 'I feel that for a correct appreciation of this important event it is necessary for me to explain the background and the policy underlying that settlement. Democratisation of the administration, which has long been the key-note of Congress policy towards the States, has become a pressing problem since August 15. The Princes themselves have in many cases begun to realise the spirit of the time, and have been gradually introducing measures in accord with that spirit. Progress has been in some States slow, in others it has been swift, but everywhere, it has been sure'. He told the Princes that their future lay in the

service of the people and their country and not in the continued assertion of their autocracy. Be it said to the credit of the Rulers that they responded to the time spirit and voluntarily surrendered to the people the powers they had so long enjoyed. It was an act of self-abnegation on their part for which they deserve the gratitude of their people.

Since democratic institutions cannot be made to function efficiently and successfully over small areas, it became necessary to form the States into large and viable units. The democratisation of States necessarily implied their integration into units large enough for administrative purposes. This was achieved by the two processes, integration and merger. Twenty-five of the Orissa States were merged with Orissa and fifteen with the Central Provinces. Soon after, fourteen Deccan States and two hundred and eighteen Gujerat States were merged with Bombay. The process spread to Madras and also in the north, and in a short space the bewildering multiplicity of the States disappeared. Most of them were merged in neighbouring States, others formed themselves into Unions like Rajasthan and Saurashtra; and Hyderabad, Mysore and Kashmere became units by themselves and were assigned to Part B of the First Schedule. The States people who groaned under the oppressive feudal rule before 1947 now enjoy the blessings of popular rule or self-government. The change-over from feudal autocracy to popular government in the territories previously belonging to the Indian States has been revolutionary, albeit, bloodless.

'How did this remarkable revolution, so historic yet so bloodless, come about in a country, known to be strongly wedded to ancient traditions and forms ? How did the descendants of Rulers and potentates who had fought valiantly against the Moghul to keep up their independence, like the Maharanas of Udaipur and the representatives of the great Maratha Empire who had contested with the British for the sovereignty ?'* Chanakya asks this important question and proceeds to answer it somewhat as follows :

He says that on account of the processes set going by the British Government in India, *e. g.*, the spread of western education, the growth of the sentiment of Indian nationalism, the integration of economic life, the growth of political parties, had rendered the conception of independent state-units within India obsolete. The Indian

* Chanakya : *The Indian Revolution*, page 123.

Princes had been maintained in power by the British Government who always came to their support whenever the people rose against them. Had their authority been based on the willing and loyal support of the people as it was in the past the phenomenon of one Ruling Prince after another handing over his territories to the Government of the Union, accepting a financial settlement and retiring into private life would not have been witnessed. 'The fact was that the monarchical system in the States had lost its inherent strength: the authority of the Princes had become derivative, their administrations but reflections of the British Government and their sovereignty though clothed in the decayed and tattered mantles of Indian kingship was, in the final analysis, supported and propped up by the British bayonets'.* The forces of Indian nationalism had sapped the foundations of monarchic rule in the States; it fell at the first impact of forces arrayed against it. This does not in any way detract from the grace, nobility and patriotism shown by a very large majority of the Ruling Chiefs of the States. Sardar Patel acknowledged 'the ready and willing help which the Rulers have given me in implementing the policy of integration and democratisation. This involved on their part considerable sacrifice and self-denial. For all this I am most grateful'. In another context Sardar Patel said : 'By their act of abnegation, these Rulers have purchased in perpetuity their right to claim the devotion of their people.'

The integration of the States with the Indian Union and their democratisation without resort to force (except in the case of Hyderabad and the show of it in the case of Junagarh) is the greatest and most notable achievement of Sardar Vallabhbhai Patel. It is a triumph of Gandhian statesmanship of which we all can be justly proud; it shall ever remain memorable in the annals of this ancient land of ours.

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* *Ibid*, page 125.

CHAPTER XXI

Indian Political Parties

Introductory — Every student of constitutions knows that from the written constitution of country alone he cannot usually obtain a true idea of the manner in which its government is run. The constitution contains an account of only the mechanism of the government but not of that which provides it with flesh and blood and gives it propelling power. This is supplied by the system of political parties prevailing in it. The constitution of the Soviet Union is as democratic as that of Great Britain in virtue of the presence of institutions like adult franchise, secret ballot, responsibility of the executive to the popularly elected legislature ; but the way in which it is worked by the Communist party, which has the monopoly of power in the Soviet Union and does not let any other political party grow and function, makes it undemocratic. Similarly, the parliamentary system of government is being run in different ways in Great Britain and France chiefly on account of the great and fundamental differences between the party systems in the two countries. How our Constitution will work will also depend on the development of the party system in the country.

Till now we have had no political parties in the true sense of the term. Our political subjection was not conducive to the growth of party system as it is found in Great Britain or the U. S. A. In these countries a political party is a group of persons bound together by allegiance to certain political principles and seeking to gain control over the machinery of government through the use of the ballot box in order to give effect to those principles in running the administration of the country. The Indian National Congress was not a political party in this sense because its aim was not to run the government in a particular way but to win freedom for the country. The Muslim League and the Hindu Mahasabha also were not true political parties because they existed and functioned for the protection of the interests of certain communities.

The parties which came into existence in 1937 to contest elections under the Government of India Act 1935 were like political parties in the West to a certain extent. But they soon disappeared

without laying the foundations of a permanent system of political parties. The chief among them were the Justice Party of Madras, the Krishak Proja Party of Bengal, the Unionist Party of the Punjab, the National Agricultural Party of U. P., and the Democratic Swaraj Party of Bombay.

As their names indicate they were provincial in nature and not of an All-India character. They were formed for capturing offices under the Act, and were mostly communal in nature. It is not necessary to describe them in any detail.

We have yet to develop the party system in the country. The fundamental question is whether we will develop the bi-party system or the multi-party system. Another moot point is whether they will be organised on communal, religious and sectarian grounds as in the past, or on socio-economic foundations. The situation as it exists at the present is indefinite and fluid ; it is difficult to make any sound guess about the future. We shall describe the aim and character of the more important parties which contested the last general elections, without describing their organisation, finances etc.

1. **The Indian National Congress** — The foremost among them is the Indian National Congress which fought for the freedom of the country and won it, and has been guiding the destinies of the nation since August 15, 1947. It has not only a nation-wide organisation but also a glorious record of service and sacrifice. It had the privilege of being led by Mahatma Gandhi for more than thirty years who gave it a definite character, and has now a person of the eminence and stature of Jawahar Lal Nehru as its leader.

Till a few years ago it was the vehicle of the national movement in the country and was the common front of all who were engaged in the task of freeing the country from bondage to foreign yoke. It was a heterogeneous body ; it included right-wingers and left-wingers, capitalists and industrialists, peasants and workers, socialists and communists, rich and poor, high and low, Hindus and Muslims, and Christians and Sikhs. The Communists were expelled from it because of the traitorous and dishonourable role which they played in the struggle of 1942. The Socialists left it of their own accord in 1948. The result is that to-day the Communist Party and the Socialist Party are in the field as rivals to the Congress, each with its own theory and programme of socio-economic reconstruction. As against the Congress the latter may be described

as parties of the left, even though they differ from each other in important respects.

Four years of power in the Centre and in the States led to various schisms in the Congress Party. Acharya J. B. Kripalani who was its General Secretary for a long time and was elected to preside over its session held in Meerut in 1946 left it and organised the Kisan-Mazdoor-Praja Party. He was joined by a few other prominent persons who also seceded from the Congress. The K. M. P. party contested the elections in several parts of India. There was the likelihood of its becoming the nucleus of a genuine political party in the future, but its decision to merge itself with the socialist party to form the Praja Socialist Party destroyed its separate existence.

Netaji Subhash Chandra Bose was responsible for the emergence of another group within the Congress, known as the Forward Bloc. It also exists as a separate organisation now, though its strength is much smaller than that of the other parties mentioned above and may become a thing of the past at no distant date. It is not much in the news at the present time.

As a result of these defections the Indian National Congress has ceased to be the common-front as it was before the achievement of freedom and has become one among the many political parties in the country. It is, however, the most powerful of all and has the largest backing in the country. It is a more homogeneous body now than ever in the past and has a policy and programme of social and economic reconstruction of its own distinct from the policies and programmes of other parties.

The constitution of the Congress adopted in April 1948 defines the Congress objective as 'the well-being and advancement of the people of India and the establishment in India by peaceful and legitimate means of a Cooperative Commonwealth based on equality of opportunities and of political, economic and social rights and aiming at world peace and fellowship.' The Election Manifesto issued in 1951 reiterates this objective and reminds the nation of the teaching of Mahatma Gandhi that the means adopted for the realisation of an end are as important as the end itself and ultimately shape and mould it. This means that the Congress limits itself to peaceful and constitutional means for the establishment of a Cooperative Commonwealth based on equality of opportunity and world peace and followship ; it rules out competition and conflict,

class-struggle and violence or bloody revolution as the means for achieving its objectives at home or abroad. This stands in sharp contrast to the policy of the Communists who openly and directly preach class-hatred and class-struggle and employ violence for bringing about social and political revolution. Our countrymen have to decide whether they stand for peaceful and ordered progress or for a violent and bloody revolution.

The conception of the social organisation which Congress has in view leads to the idea of India as a *secular state* which stands opposed to the ideal of India as a Hindu Rashtra advocated by communal bodies like the Hindu Sabha, the R. S. S., or the Jan Sangh. The foreign policy of the Congress is directed to the promotion of world peace. This is the reason why India has refused to take sides in the cold war between the Anglo-American bloc and the Soviet bloc.

The ideal of Co-operative Commonwealth based on equality of opportunity and of political, economic and social rights commits the Congress to the task of raising the standard of living of the vast rural population. The Election manifesto issued in 1951 declares as follows : 'In India to-day, stress must inevitably be laid on the progress of the rural areas and the people who live there. Not only do they contain the vast majority of our population and are basis of our economy. but they have suffered neglect in the past and this must be made good so that they might have full opportunities for econonmic and cultural advance and to live the good life which is our aim.' The first step in the direction was the passing of Zamindari Abolition Bills in several States. Several multi-purpose river valley projects have been taken in hand with the same end in view. Efforts are also being made to encourage cooperative farming, cottage industries and research work.

Congress has not ignored industrial labour. In its Election Manifesto of 1945 it declared as follows : 'In regard to labour, the State shall safeguard the interests of industrial workers and shall secure to them a minimum wage and a decent standard of living, proper housing, hours of work and conditions of work in conformity, so far as the economic conditions in the country permit, with international standards... Workers shall have the right to form Unions to protect their interests.' The Government set-up a Central Advisory Council for Labour which framed agreed proposals to

ensure fair wages to workers. A Bill to secure fair wages was under consideration by Praliament. Government also put on the statute book several laws designed to benefit labour. It has tried to strengthen the trade union movement and regulate it along healthy lines. In short, the Congress has tried to give a fair deal to industrial labour.

On the other side, it has definitely eachewed the policy of expropriating the capitalists on which the Communists lay great stress. In order to secure that the productive capacity of the nation may not suffer and consumer goods may be made available in sufficient quantitities, Congress assured the capitalists that there was no prospect of the nationalisation of all industry in the near future. It has encouraged the import of foreign capital also. In other words, Congress stands for mixed economy. It holds that basic industries should be owned and controlled by the State ; State trading should be undertaken whenever the balance of advantage lies in favour of such a course. A large field for private enterprise has been left over. Our economy would thus have a public sector and a private sector. The Planning Commission prepared a five-year plan involving an investment of 1,793 crores of rupees. It contained the programme of the Congress for the future. If successfully carried out, it would transform the economic life of the country. The adoption of Planning means that Congress does not believe in *laissez faire* economy. Today the aim of the Congress is the establishment of socialist pattern of society in the country. But it eschews the doctrine of class war and prefers the method of persuation and legislature.

As has been stated already, the Indian National Congress stands for world peace and fellowship. Under the leadership of Pandit Jawahar Lal Nehru the Government of India is pledged to give its full and whole-hearted support to the United Nations Organisation as an instrument of world peace. In the cold war between the two rival power-blocs, Soviet Russia and the Western Democracies, India has avoided taking sides ; she has adopted an attitude of neutrality. She is however definitely anti-imperialistic and lends support to movements of liberation and independence in Asiatic countries. She believes in and works for the maintenance of friendly relations with her neighbours and other States of the world.

2. The Socialist Party — The Socialist party was formed in 1934 by Jai Prakash Narain, Asok Mehta, Achyut Patwardhan and other young Congressmen who lay imprisoned in the Nasik Jail. They felt dissatisfied with the leadership of Mahatma Gandhi, as they thought that he was not laying sufficient emphasis on economic policies. They also desired to inject the strain of socialistic thought into Congress ideology to a larger degree. Many more young men joined the group and for several years it worked as the left wing of the Congress. As far as internal matters were concerned the Socialist party functioned as progressive opposition within the Congress, but in regard to questions of national importance it gave unflinching support to the parent body. In the upheavel of 1942 the role played by the Socialists was glorious and patriotic while that played by the Communists was dishonourable and unpatriotic.

Finding that the Congress was not developing along leftist lines and there was no hope of the Constituent Assembly declaring in favour of an immediate establishment of a Socialist Republic in the country and also because of differences with it on some other vital questions like the attitude towards the Muslim League, the Socialists decided to leave the parent body and organise themselves as a separate party outside it. They designated the new party as the Socialist Party of India and began to admit non-Congressmen into it.

In the Election Manifesto isssued in 1951 the Socialist Party accuses the Indian National Congress of having blasted the hopes of the workers and the peasants, the unemployed and the under-privileged who rallied under its banner during its struggle for freedom. It asserts that the pulsating impulse of freedom has not been allowed to flow into every limb of society and every sphere of work, that the efforts of the Congress at the economic amelioration of the masses have failed because it allowed the vested rights of the privileged classes to remain inviolate. During the four years of Congress rule the vast disparities in economic rewards have widened ; the rich have become richer and the poor poorer. According to the Socialists 'the sterile moves towards the abolition of zamindari, the oscillations between control and decontrol, the growing regression in taxation, the re-emergence of the traditional hegemony of the employers over employees merely underline the Congress Government's fear of fundamental change in the socio-economc istructure

of the land. This hesitation and fear have resulted in the erosion of all reforming zeal in the Congress. In four years of power the Congress has been metamorphosed into a Conservative Party.'

The Socialist Party believes that the deterioration which has set in cannot be checked and the upward journey towards progress and prosperity cannot begin unless boldness, vision and determination are brought to bear upon the task of reconstructing the social and economic life of the country. It rejects a piece-meal soultion of the problems and stands for radical and structural changes in the socio-economic sphere. They are set forth in its election manifesto.

The Socialists attach very great importance to the food problem and propose several ways of solving it. Firstly, they propose to set up bands of land volunteers or Bhumi Sevaks to help the peasants increase the yield per acre of land, and a Food Army or Anna Sena for reclaiming waste land, draining away marshes, digging canals and clearing jungles. Secondly, they reject as meaningless the Congress scheme of abolition of Zamindari on payment of compensation to the Zamindars ; they want to take away land from the Zamindars without payment of any compensation to them, Thirdly, with a view to social justice and economic equality they recommend redistribution of land on the basis of not more than 30 acres of land of average productivity per family. The land will belong to the tiller and there shall be no intermediary between them and the State. To overcome the defects arising out of the small size of land-holdings they suggest pooling of resources and co-operation among their owners. They also recommend collective farming on lands reclaimed through State efforts. Further, they say that the State should help the tiller of the soil by making available to him better manure, better seeds, marketing facilities, implements, etc. They suggest radical overhauling of the administrative machinery of the State relating to agriculture, and the establishment of model farms. The following extract from their Election Manifesto sums up their solution of the agrarian problem :

'When land is distributed among the tillers, when every tiller is an owner of land and every owner tills for livelihood, when landless labourers secure justice and rehabilitation, a new relationship will spring up in the village. Administrative changes, wherein a pivotal position is assigned to democratically functioning village panchayats, will abolish the distance that has separated and estrang

the peasant form Authority. The community of free and equal men will then be in a mood to labour co-operatively to better the village.'

The Socialists bitterly complain that Big Business has miserably failed to rise equal to the occasion ; it has not stepped up production to meet the requirements of the community. They therefore recommend socialisation of important industries like textiles, sugar and cement. Since there is lack of adequate capital for introducing latest machinery in these industries, they propose to nationalise banking, insurance and other credit institutions. Mines and electricity are also to be nationalised. Besides the nationalised sector there would be a medium-scale private sector and the small scale co-operative sector of industry. Nationalised industry is to be run by public corporations, 'autonomous so far as the detailed policy is concerned,but subject to the overall control of the State in general matters of policy.' Municipal enterprises are to be another way of managing the nationalised sector. All local public utility services like electricity, water, gas, theatres will be under the control of local bodies. The workers are to be given representation on corporations. Through work councils and production committees their co-operation should be enlisted in the planning of enterprise. In order to give the workers a share in the management of industry the Socialists advocate autonomous trade unions which will be the organs of collective bargaining and will be associated with organisation of social security, of technical and general education of workers, etc.

The Socialists recommend the establishment of a State Trading Corporation to deal with the question of import of capital goods and industrial raw material for the nationalised sector of industry and the export of its products. This is their method to eliminate balck marketing, hoarding and speculation. The Corporation will define priorities for import and direction of export.

The Socialists will try to bring all incomes within the minimum of Rs. 100/- and the maximum of Rs. 1000/- a month. Graduated income-tax, super-tax, excess profits tax, capital gains tax, and death duties are some of the measures suggested for the purpose.

Since some of the proposals of the Socialists are inconsistent with the provisions of the Constitution, they propose necessary changes in it. They also recommend radical alterations in the

character of administration, so as to rid it of overtones of bureaucracy, red-tapism, etc.

In the sphere of foreign relations the Socialist Party wants that India should cease to be a member of the Commonwealth of Nations and thus break away completely with Great Britain. Although it is highly critical of the Congress and its achievements both at home and in the sphere of foreign relations, nevertheless, in would abstain from getting involved in the disputes between the Anglo-American bloc and the Soviet bloc, and strengthen the U. N. O., —a thing which the Congress is actually doing.

We have given a fairly comprehensive account of what the Socialist Party of India stands for because it is based on a definite ideology which deserves careful consideration. It falls beyond the scope of this chapter to subject it to any detailed criticism. All that we need do is to draw attention to the fact that Pandit Jawahar Lal Nehru who is among the pioneers of socialistic thought in India stands out of the party. He still considers himself to be a socialist and wants to develop India along socialistic lines. But he does not subscribe to the creed of the Socialist Party of India because he thinks, and rightly so, that its programme has been drawn up in a doctrinaire spirit and without proper regard to the conditions prevailing in the country. India is not yet ripe for the introduction of full-fledged Socialism ; to proceed in a hasty manner and force the pace will be a great disservice to the cause of Socialism and also to the country. There is a good deal in common between the objectives of the Congress and the Socialists ; the two parties differ more in regard to the speed with which Socialism is to be introduced in the country. In the opinion of the writer the present Congress programme of mixed economy is best suited to the needs of the country. The attempt to nationalise big industry would lead us into serious troubles ; the people must first be prepared for it by intensive propaganda.

3. **The Communist Party**—The Communist Party of India came into existence in 1924, but was declared illegal soon after its birth by the Government of British India. It remained an unlawful association till 1943 when Congress and other parties were banned because of their determination to put an end to the British rule in the country. The British Government removed the ban on the Communist Party because it was not only opposed to the Quit

India movement launched by the Congress, but also gave its unstinted support to the British Government in the prosecution of its war effort. It is interesting to remember that before the entry of Soviet Russia in the European War against Germany it was an imperialist war for the Indian Communists, but became a 'People's War' as soon as Russia got involved in it.

So long as it was under the ban till its removal in 1943, the Communist Party carried on its activities under the Congress flag and from the Congress platform. There were confined mostly to the organisation of labour unions and student bodies. On account of their most unpatriotic activities during the national struggle of 1942 the Communists were expelled from the Congress in 1945. Since then, they have been functioning as an independent organisation.

The attitude of the Indian Communists towards most of the problems facing the country has been changing from time to time. It is generally believed that the changes are determined by the international situation and the policies of the U. S, S. R. As has been pointed out above, they condemned World War II as imperialistic before the entry of Russia into it ; after her entry they supported it as the People's War. So long as Pakistan was not established, they supported the League in its demand for Pakistan and cooperated with the League in the general elections held in 1946 against the Congress. After Independence the Indian Communists promised support to the Nehru Government in the war against communal bodies in the country : but under the leadership of Mr. Randive they changed their tactics and started a campaign of violence, loot and arson in different parts of the country. The party was declared illegal by the Government of West Bengal, and the Government of Bombay put a ban on its weekly organ, the *People's Age*. Its new leader, Mr. S. A. Dange, has repudiated the tactics of violence and affirmed faith in constitutional activities.

The cause of the shifts in its policies seems to lie in the unwritten rule of the party to mould them 'with reference to the policy of Russia in international affairs, rather than according to the conditions obtaining in India. This is an inherent contradiction in the Indian Communist Party. The Indian communists look to Moscow for guidance and inspiration. To them Moscow is the epitome of everything that is modern, progressive, dynamic.'* This

* Cr. N. V. Rajkumar, *Indian Political Parties*, page 72

observation of Dr. Rajkumar seems to be true. There is no doubt that unlike the Socialists, who are patriotic and nationalists, the Communists in India owe loyalty to Moscow. They are Communists first and Communists next, and Indians last, if they are so at all. This is not surprising ; it is the logical corollary to the fact that Communsim is an international creed and the Communist Party of India want to establish in our country a dictatorship of the proletariat in accordance with the teaching of Marxism-Leninism as has been done in Soviet Russia. Its objective is "the organisation of the toiling masses for a bloody revolution which will completely overthrow the old order with its values of life and instal in its place a completely new social and economic order based upon the doctrines of Marx and Lenin, in utter disregard of the genius and temperament of the people. The party is out to impose a wholly alien culture upon this ancient land of ours, a culture which is professedly material and ungodly and has no place for the spiritual values of life to which India has always attached the highest importance. The success of the Communists will mean the death of the ancient Indian civilization and culture. Whreas the message of India to the world has been : 'Help and not fight, harmony and not dissension,' Communism propagates the cult of class hatred and class war and revolution.

Not only do the Communists want to impose an utterly foreign socio-economic order upon the people of India by violent means, they also professedly work in the interests of only one section of society, namely, the workers and peasants. They openly declare their hostility to other classes including what they call the capitalist or bourgeoisie elements.

Their programme includes the confiscation and nationalisation of all foreign capital in the country*, abolition of zamindari and landlordism without any compensation, the cancellation of all peasants' debts, and the transfer of all lands and implements of the landlords to the tillers of the soil. They propose a 50% reduction of rents payable by the tenants, a great reduction of taxes on the common people, an increase in the taxes on the rich, and a steeply graduated income-tax. They naturally want nationalisation of big industry with workers' control over it and the enforcement of a

* In this connection it is well to remember the serious international situation which has arisen on account of the action taken by Persia in nationalising the oil industry

living wage and eight hours' working day.

The Communists aim at establishing the People's Democracy in which all organs of the state from the highest to the lowest will be elected by the people who will have the right to recall any representative who betrays their trust. All the powers of the state will be vested in these elected organs; there would be no officials imposed from above, and no police force standing above the people. The police force is to be replaced by a people's militia, raised, guided and controlled by the people themselves through their organs in power. Such a people's democracy exists nowhere in the world, Soviet Russia included; it is open to serious doubt if it is realisable or even desirable. The practicability or impracticability of their programme does not seem to worry the Communists; the question of the morality of the means adopted for the attainment of their objective also does not exist for them; contrary to the teachings of Mahatmaji and other teachers of mankind they believe in the maxim that the end justifies the means. They do not stop to think that one who sows the wind reaps the whirlwind. There would not have been the great tension between the Western Democracies and the Soviet bloc after their short-lived cooperation during the war against the axis powers, if the methods employed by the Communists in Russia had been more in accord with the current moral code.

It may also be stated that the Communist Party stands for the withdrawal of India from the Commonwealth of Nations, but would not hesitate to bring India within the orbit of Soviet influence and make her a satellite of Russia. It wants cooperation with Pakistan in defence, foreign relations. and economic matters.

It should be borne in mind that though both the Socialist and Communist Parties are parties of the left as against the Congress, there is a fundamental difference between the two. The Socialists are committed to the employment of peaceful and legitimate means for the realisation of their objective; they eschew violence. They owe allegiance to India and not to any foreign party. The Communists, on the other hand, are wedded to violence; in the past they have followed the path of open warfare against the state. This is the reason why Government took stern action against them, but not against the Socialists. As has been said above, the Communists place loyalty to Moscow above loyalty to India.

4. The Kisan-Mazdoor-Praja Party—While the Socialist Party

and the Communist Party are of some standing, the K. M. P. Party is of very recent origin. It has been organised by Acharya J. B. Kripalani and a few other persons who left the Congress because they felt that it was drifting away rapidly from the path laid down by Mahatma Gandhi and much corruption and evil had entered it. Most of the dissident groups within the Congress have joined this new party. It has nothing new to offer to the people except the principles on which Gandhiji worked and which still form the basis of the programme and policies of the Congress. It could possibly have formed a force in the political life of the country parallel to the Socialists and the Communists but it did not fare well in the general elections of 1951 and with a view to forming a strong opposition to the Congress within Parliament it decided upon a merger with the Socialist Party. It has no separate existence now, it forms part of the P. S. P.

5. Mention should also be made of the All-India Liberal Federation, even though it has now almost ceased to exist as a political party. No session of the party has been held since 1945. The party consisted of a number of front rank politicians who rendered valuable services to the country in the past in several ways. During the British period they were sometimes returned to the legislatures where they offered well-informed criticism of the government measures, and on occasions represented India in international conferences and at the R. T. C. with credit. The school is fast disappearing as it has no contact with the masses and makes little appeal to them. As a force in Indian politics it has almost ceased to exist.

Besides the Indian National Congress, the Socialist Party of India, the Communist Party of India, and the K. M. P. Party, there are a few other non-communal parties in our country which are based on differences of principles and outlook. They are minor parties. The chief of them are the Revolutionary Socialist Party, the Revolutionary Communist Party, the Marxist and Ruikar groups of the Forward Bloc and the Radical Democratic Party of Mr. M. N. Roy. Mention may also be made of the Peasants and Workers' Party of Maharashtra.

Communal Parties—Communalism is not yet dead in our country; we have still in our midst parties based on sectarian and communal considerations. The chief of them are the Hindu Maha-

sabha, the newly started Bhartiya Jan Sangh, the Ram Rajya Parishad, the Muslim League, the Akali Party led by Master Tara Singh, and the Scheduled Castes Federation led by Dr. B. R. Ambedkar. Something has been said about the Hindu Mahasabha on pages 406—408; here we shall refer to the main points of its election manifesto. The Akali Party is a local party in the Punjab, and may therefore be ignored here. A few words about the Bhartiya Jan Sangh, the Muslim League and the Scheduled Castes Federation seem to be called for.

(*i*) The Hindu Mahasabha—The main points of the manifesto of the Hindu Mahasabha are the following: Re-establishment of the Akhand Hindustan; severance of the link with the Commonwealth; state ownership of land; recognition of the sanctity of private property, progressive decontrols, nationalisation of key industries like electricity, railways, coal, and steel; and the policy of reciprocity towards Pakistan.

(*ii*) The Bhartiya Jan Sangh was brought into being in October 1951 for contesting the general elections, because the Rashtriya Swayam Sevak Sangh did not choose to participate in them directly on the ground of its being a cultural body. It may thus be regarded as an offshoot of the R. S. S. Its strength comes largely from the sections of the Hindus influenced by the R. S. S. It believes in a reunited Bharat and would strive for uniting Pakistan by peaceful means; but how an independent country can be annexed by peaceful means is not made clear. It demands that the Kashmir issue should be withdrawn from the U. N. O. In the economic sphere it stands for a well-planned decentralised national economic plan—perhaps something like the Sarvoday plan. On the social plane it is opposed to the Hindu Code Bill.

(*iii*) With the establishment of Pakistan in 1947 the Muslim League could not function on the old basis. At its last meeting held at Karachi the same year it was split into two parts, one functioning in Pakistan as the Government party and the other functioning in India as the opposition. But what remained in India was a mere rump; it had little vitality left. The Indian Muslims took little time to realise that the establishment of Pakistan had done them no good. They listened to the appeal of Maulana Abul Kalam Azad and decided to join the Indian National Congress. In many parts of the country the League ceased functioning. Most of the

Muslims do not follow its lead and so nothing more need be said about it.

(*iv*) Like the Muslim League the Scheduled Castes Federation suffered a great decline after the winning of national freedom and the departure of the British. The Federation had been brought into existence by the learned Dr. B. R. Ambedkar, and following in the footsteps of the Muslim League the Federation developed a strong anti-national and anti-Congress sentiment and began to make extravagant demands for the scheduled castes. But it did not achieve much success. With the election of Dr. Ambedkar to the Constituent Assembly and his inclusion in the Cabinet the Federation became inactive. Recently, Dr. Ambedkar tried to put new life into it after resigning from the Cabinet. It issued an election manifesto which does not contain any points of vital interest and is therefore ignored.

General Observations—It would be evident from the foregoing account that with a number of political parties based on ideological and temperamental differences and communal and sectarian grounds we have material enough for the emergence of a genuine multiparty system on the French pattern. What has happened in Madras and Travancore-Cochin may happen elsewhere and in future also. No one political party may command an absolute majority in the popular chamber to form a homogeneous and stable government in some States.

At present the Indian National Congress is undoubtedly the strongest party in the country. In the last general elections (1951) it returned in an overwhelming majority in the Centre, in Bombay, C. P., Himachal Pradesh, U. P., and elsewhere. It was only in Travancore-Cochin that it did not command an absolute majority. The Communists are not strong anywhere except in Travancore-Cochin, Madras and Hyderabad. They captured a few seats in West Bengal. The Socialists suffered badly, and so did the newly formed Kisan-Mazdoor-Praja Party. The appeal of communal parties like the Hindu Mahasabha, Jan Sangh and the Ramrajya Parishad also failed to catch the imagination of the masses to any great extent. But the present atmosphere may not continue for a long time; the Socialists may be able to cover much of the lost ground with better organisation and more effective leadership; it cannot be denied that socialistic ideas are very popular with the younger generation and the ever increasing army of the educated unemployed. Even though

the Communistic theory of dictatorship of the proletariat and its war-cry of class struggle and forcible expropriation of the capitalists are definitely incompatible with the civliization and traditions of the Indian people, the poverty of the masses, the present economic conditions, and social rigidity in some areas, provide a fertile ground for its propagation in our country. The effect of the success achieved by the Communists in China and of their activities in Tibbet, Burma, Malaya, Indo-China and other parts of South-East Asia on the masses of our country cannot be ignored.

Though the communal parties like the Jan Sangh, Ram Rajya Parishad and the Hindu Mahasabha were routed in the last elections, it cannot be concluded that the danger from this quarter is over; it would be wrong to underestimate the influence of the R. S. S. on the younger generation. It is doubtful if it would diminish with the passage of time.

We may therefore conclude that the emergence of the multi-party system cannot be ruled out as an improbability; there is much in our national life which is positively favourable for its growth. If the Congress is again returned to power with large majorities in the Centre and in the States in the next elections, which is likely enough, we would be spared the evils of unstable governments arising out of the presence of a large number of parties in the country.

APPENDIX

CONSTITUTIONAL AMENDMENTS

During the six years that our Constitution has been in force, it has had to be amended several times. All the amendings are given below. It would be observed that some of them touch vital points; e. g., restrictions upon individual liberty. They were occasioned by the force of circumstances. Some other amendments were made to meet the situation created by adverse decisions of the Supreme Court and some High Courts.

THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951

An Act to amend the Constitution of India.

Be it enacted by Parliament as follows :—

1. **Short title**—This Act may be called the Constitution (First Amendment) Act, 1951.

2. **Amendment of article 15**—To article 15 of the Constitution, the following clause shall be added :—

"(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes."

3. **Amendment of article 19 and validation of certain laws**—(1) In article 19 of the Constitution,—

(*a*) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form, namely :—

"(2) Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence' '.

(*b*) in clause (6), for the words beginning with the words "nothing in the said sub-clause" and ending with the words "occupation, trade or business", the following shall be substituted, namely:— "nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevents the State from making any law relating to,—

(*i*) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(*ii*) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void, or ever to have become void, on the ground only that being a law which takes away or abridges the right conferred by sub-clause (*a*) of clause (1) of the said article, its operation was not saved by clause (2) of that article as originally enacted.

Explanation—In this sub-section, the expression "law in force" has the same meaning as in clause (1) of article 13 of the Constitution.

4. Insertion of new article 31A—After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely :—

"31A. *Saving of laws providing for acquisition of estates, etc.* —(1) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such right shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by any provisions of this Part :

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

(2) In this article,—

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir*, *inam* or *muafi* or other similar grant ;

(b) the expression "right", in relation to an estate, shall include any right investing in a proprietor, sub-proprietor, under proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue."

5. **Insertion of new article 31B**—After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely :—

"31B. *Validation of certain Acts and Regulations*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force."

6. **Amendment of article 85**—For article 85 of the Constitution, the following article shall be substituted, namely :—

"85. *Sessions of Parliament, prorogation and dissolution*—(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(a) prorogue the Houses or either House ;

(b) dissolve the House of the People."

7. **Amendment of article 87**—In article 87 of the Constitution,-

(1) in clause (1), for the words "every session" the words "the first session after each general election to the House of the People

and at the commencement of the first session of each year" shall be substituted ;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

8. Amendment of article 174--For article 174 of the Constitution, the following article shall be substituted, namely :—

"174. *Sessions of the State Legislature, prorogation and dissolution*—(1) The Governor shall from time to time summon the House or each House of the Legislature of the State or meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(*a*) prorogue the Houses or either House ;

(*b*) dissolve the Legislative Assembly."

9. Amendment of article 176—In article 176 of the Constitution,—

(1) in clause (1), for the words "every session" the words "the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year" shall be substituted ;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

10. Amendment of article 341—In clause (1) of article 341 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

11. Amendment of article 342—In clause (1) of article 342 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

12. Amendment of article 372—In sub-clause (*a*) of clause (3) of article 372 of the Constitution, for the words "two years" the words "three years" shall be substituted.

13. Amendment of article 376—At the end of clause (1). of article 376 of the Constitution, the following shall be added namely :—

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court."

14. Addition of Ninth Schedule—After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely :—

"NINTH SCHEDULE"

[Article 31B]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion in Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358 F. (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1959 F. (No. XXV of 1359, Fasli)."

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THE CONSTITUTION (SECOND AMENDMENT) ACT, 1952

An Act further to amend the Constitution of India

Be it enacted by Parliament as follows :—

1. **Short title**—This Act may be called the Constitution (Second Amendment) Act, 1952.

2. **Amendment of article 81**—In sub-clause (b) of clause (1) of article 10 of the Constitution, the words and figures "not less then one member for every 750,000 of the population and" shall be omitted.

THE CONSTITUTION (THIRD AMENDMENT) ACT, 1954

An Act further to amend the Constitution of India

Be it enacted by Parliament in the Fifth Year of the Republic of India as follows :—

1. **Short title**—This Act may be called the Constitution (Third Amendment) Act, 1954.

2. **Amendment of the Seventh Schedule**—In the Seventh Schedule to the Constitution, for entry 33 of List III, the following entry shall be substituted, namely :—

"33. Trade and Commerce in, and the production, supply and distribution of,—

(*a*) the products of any industry, where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products ;

(*b*) foodstuffs, including edible oilseeds and oils ;

(*c*) cattle fodder, including oilcakes and other concentrates ;

(*d*) raw cotton, whether ginned or unginned, and cotton seed ; and

(*e*) raw jute."

THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955

An Act further to amend the Constitution of India

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows :—

1. **Short title**—This Act may be called the Constitution (Fourth Amendment) Act, 1955.

2. **Amendment of article 31**—In article 31 of the Constitution, for clause (2), the following clauses shall be substituted, namely :—

"(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State or to a corporation owned or controlled by the State, it shall not be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property."

3. **Amendment of article 31A**—In article 31A of the Constitution,—

(*a*) for clause (1), the following clause shall be and shall be deemed always to have been, substituted, namely :—

"(1) Notwithstanding anything contained in article 13, no law providing for—

(*a*) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(*b*) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(*c*) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(*d*) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(*e*) extinguishment or modification of any rights accruing by

virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31 :

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President has received his assent" and

(*b*) in clause (2),—

(*i*) in sub-clause (a) after the word "grant", the words "and in States of Madras and Travancore-Cochin, any *janmam* right" shall be, and shall be deemed always to have been, inserted; and

(*ii*) in sub-clause (b), after the word "tenure-holder", the words "*raiyat, under-raiyat*" shall be, and shall be deemed always to have been, inserted.

4. **Substitution of new article for article 305**—For article 305 of the Constitution, the following article shall be substituted, namely :—

"305. **Saving laws existing and laws providing for State monopolies**—Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise direct; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, in so far as it relates to, or prevent Parliament or the Legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (*ii*) of clause (6) of article 19."

5. **Amendment of the Ninth Schedule—In** the Ninth Schedule to the Constitution, after entry 13, the following entries shall be added, namely :—

"14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).

15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U. P. Act XXVI of 1948).

16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).
17. Sections 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act LXVII of 1950).
18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).
19. Chapter III-A of the Industries (Development and Regulation) Act, 1951, (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).
20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951."

THE CONSTITUTION (FIFTH AMENDMENT) ACT, 1955

An Act further to amend the Constitution of India

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows :—

1. This Act may be called the Constitution (Fifth Amendment) Act, 1955.

2. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely :—

"Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired."

THE CONSTITUTION (SIXTH AMENDMENT) BILL, 1956

A Bill further to amend the Constitution of India

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows :—

1. Short title—This Act may be called the Constitution (Sixth Amendment) Act, 1956.

2. Amendment of the Seventh Schedule—In the Seventh Schedule to the Constitution,—

(*a*) in the Union List, after entry 92, the following entry shall be inserted, namely :—

"92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce," ; and

(*b*) in the State List, for entry 54, the following entry shall be substituted, namely :—

"54. Taxes on the sale [illegible]urchase of goods other than newspapers, subject to the provis[illegible] of entry 92A of List I."

3. Amendment of article 269—In article 269 of the Constitution,—

(*a*) in clause (1), after sub-clause *(f)*, the following sub-clause shall be inserted, namely :—

"(*g*) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-state trade or commerce," ; and

(*b*) after clause (2), the following clause shall be inserted, namely :—

"(3) Parliament may by law formulate principles, for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce."

4. Amendment of article 286—In article 286 of the Constitution, —

(*a*) in clause (1), the *Explanation* shall be omitted ; and

(*b*) for clauses (2) and (3), the following clauses shall be substituted, namely :—

"(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."